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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, February 13, 2007
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Reader Aids

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To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 8105 of February 2, 2007

National Consumer Protection Week, 2007

By the President of the United States of America

A Proclamation

During National Consumer Protection Week, citizens are urged to learn more about the risks of fraud and identity theft and take precautions to protect themselves from these crimes.

Americans can help prevent fraud and identity theft by becoming informed consumers. The Federal Trade Commission suggests that individuals safeguard personal information such as Social Security and account numbers, closely monitor their financial accounts, and report any problems or suspicious activity. When doing business through the Internet, it is especially important to protect personal data with appropriate software and commonsense security practices. Consumers and businesses can find resources on how to avoid identity theft and fraud by visiting the Federal Government's consumer protection website, www.consumer.gov.

My Administration is committed to protecting consumers from fraud, deception, and unfair business practices. In May 2006, I signed an Executive Order creating the Nation's first Identity Theft Task Force, comprised of the heads of executive departments and agencies. This Task Force is implementing a comprehensive strategy to prevent identity theft, prosecute those who commit fraud, and help victims. Through these and other efforts, we are helping to ensure that consumers have the tools they need to secure their personal information, monitor their financial accounts, maintain their privacy, and make responsible decisions to guard against fraud.

Consumer fraud takes advantage of the trust and integrity that characterizes our country's marketplace. By remaining vigilant and defending against fraud, Americans can protect their financial security and help our Nation's economy remain strong.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 4 through February 10, 2007, as National Consumer Protection Week. I call upon Government officials, industry leaders, and consumer advocates to provide citizens with information about how they can prevent fraud and identity theft, and I encourage all citizens to be responsible consumers and take an active role in protecting their personal information.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of February, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 07–596
Filed 2–7–07; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 72, No. 26
Thursday, February 8, 2007

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE267, Special Condition 23–207–SC]

Special Conditions: Quest Aircraft Company; Kodiak Model 100; Protection of Electronic Flight Instrument System From the Effects of High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Quest Aircraft Company, LLC; 1200 Turbine Drive; Sandpoint, ID 83864 for a type certificate for the Kodiak Model 100 airplane. These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electrical and electronic systems that perform critical functions for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is January 31, 2007. Comments must be received on or before March 12, 2007.

ADDRESSES: Mail comments in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE267, Room 506, 901 Locust, Kansas City, Missouri 64106. Mark all comments: Docket No. CE267. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: James Brady, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4132.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested persons to take part in this rulemaking by sending written data, views, or comments. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of the written comments. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 6, 2000, Quest Aircraft Company, LLC; 1200 Turbine Drive; Sandpoint, ID 83864 applied to the FAA for a type certificate for the Kodiak Model 100. Changes in technology have given rise to advanced airplane electrical and electronic systems and higher energy levels from high-power radio frequency transmitters such as radio and television broadcast stations, radar and satellite uplink transmitters. The combined effect of these developments has been an increased susceptibility of electrical and electronic systems to electromagnetic fields. The proposed modification incorporates a novel or unusual design feature, such as electrical and electronic systems, that are vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, Quest Aircraft Company must show that the Kodiak Model 100 airplane meets the type certification basis for the airplane, as applicable, and § 23.1301 of Amendment 23–20; §§ 23.1309, 23.1311, and 23.1321 of Amendment 23–49; and § 23.1322 of Amendment 23–43; exemptions, if any; and the special conditions adopted by this rulemaking action.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.17.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to

incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

Quest Aircraft Company plans to incorporate certain novel and unusual design features into the Kodiak Model 100 airplanes for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include electrical and electronic systems that perform critical functions, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems from High Intensity Radiated Fields (HIRF): Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz ...	100	100
200 MHz–400 MHz ...	100	100
400 MHz–700 MHz ...	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Quest Aircraft Company, LLC Kodiak Model 100. Should Quest Aircraft Company, LLC apply at a later date for a supplemental type certificate for a type design change that incorporates the same novel or unusual design feature, the special conditions would apply to that change as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Quest Aircraft Company Kodiak Model 100.

1. *Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF).* Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri, on January 31, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2098 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE265, Special Condition 23–205–SC]

Special Conditions; Aviation Technology Group (ATG); Javelin Model 100; Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Aviation Technology Group (ATG), 8001 S. InterPort Blvd., Englewood, CO 80112 for a type certificate for the Javelin Model 100 airplane. These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electrical and electronic systems that perform critical functions for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is January 31, 2007. Comments must be received on or before March 12, 2007.

ADDRESSES: Mail comments in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE265, Room 506, 901 Locust, Kansas City, Missouri 64106. Mark all comments: Docket No. CE265. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: James Brady, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4132.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested persons to take part in this rulemaking by sending written data, views, or comments. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of the written comments. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On February 15, 2005, Aviation Technology Group (ATG), 8001 S. InterPort Blvd., Englewood, CO 80112 applied to the FAA for a type certificate for the Javelin Model 100. Changes in technology have given rise to advanced airplane electrical and electronic systems and higher energy levels from high-power radio frequency transmitters such as radio and television broadcast stations, radar and satellite uplink transmitters. The combined effect of these developments has been an increased susceptibility of electrical and electronic systems to electromagnetic fields. The proposed modification incorporates a novel or unusual design feature, such as electrical and electronic systems, that are vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, Aviation Technology Group must show that the Javelin Model 100 airplane meets the type certification basis for the airplane, as applicable, and § 23.1301 of Amendment 23–20; §§ 23.1309, 23.1311, and 23.1321 of Amendment 23–49; and § 23.1322 of Amendment 23–43; exemptions, if any; and the special conditions adopted by this rulemaking action.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.17.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

Aviation Technology Group plans to incorporate certain novel and unusual design features into the Javelin Model 100 airplanes for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include electrical and electronic systems that perform critical functions, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems from High Intensity Radiated Fields (HIRF): Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

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These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
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30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter peak root-mean-square (rms), electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the ATG Javelin Model 100. Should ATG apply at a later date for a supplemental type certificate for a type design change that incorporates the same novel or unusual design feature, the special conditions would apply to that change as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon

issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the ATG Javelin Model 100.

1. *Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF).* Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri, on January 31, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–2097 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27150; Directorate Identifier 2006–NM–288–AD; Amendment 39–14929; AD 2007–03–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 and A300–600 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking in the wing main landing gear (MLG) rib 5 aft bearing forward lug, which could affect the structural integrity of the MLG attachment. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective February 23, 2007.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of February 23, 2007.

We must receive comments on this AD by March 12, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency Airworthiness Directive 2006–0372–E, dated December 14, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states that during routine visual inspection, a crack has been found in the wing MLG (main landing gear) rib 5 aft bearing forward lug on two Model A310 in-service aircraft. Laboratory examination of one of the cracked ribs confirmed that the crack is due to the presence of pitting corrosion in the forward lug holes. Also, on both aircraft medium to heavy corrosion was found in the forward lugs on the opposite wing after removal of the bushings. Similar to Model A310 aircraft, Model A300 and A300–600 aircraft are also affected by this situation, which, if not detected, could affect the structural integrity of the MLG attachment. The aim of the MCAI is to mandate repetitive detailed visual inspections of wing MLG rib 5 aft bearing forward lugs for detection of through cracks and corrective action (contacting Airbus and replacing cracked lugs if necessary). The MCAI notes that for Airbus Model A310 aircraft, refer to EASA Emergency Airworthiness Directive 2006–0335–E, issued November 3, 2006. In response to that MCAI, on December 7, 2006, we issued AD 2007–02–09, amendment 39–14896 (72 FR 2612, January 22, 2007), to address this unsafe condition on Model A310 airplanes. You may obtain

further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletins A300–57A0248, including Appendix 01, dated December 12, 2006; and A300–57A6105, including Appendix 01, dated December 12, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all the information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over the actions copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because following routine visual inspection, two through cracks have been found in the wing MLG rib 5 lug on a Model A310 airplane. The cracks were extended through the entire thickness of the forward lug. Failure of this attachment could result in gear collapse upon landing. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–27150; Directorate Identifier 2006–NM–288–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD would not have federalism implications under Executive Order 13132. This AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2007–03–18 Airbus: Amendment 39–14929. Docket No. FAA–2007–27150; Directorate Identifier 2006–NM–288–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 23, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 and A300–600 airplanes; certificated in any category, all certified models, all serial numbers except for those where LH (left-hand) and RH (right-hand) wing MLG (main landing gear) rib 5 forward lugs have been repaired by installation of oversized interference fit bushings as per drawing R57240221.

Reason

(d) The MCAI states that during routine visual inspection, a crack has been found in the wing MLG rib 5 aft bearing forward lug on two Model A310 in-service aircraft. Laboratory examination of one of the cracked ribs confirmed that the crack is due to the presence of pitting corrosion in the forward lug holes. Also, on both aircraft medium to heavy corrosion was found in the forward lugs on the opposite wing after removal of the bushings. On December 7, 2006, we issued AD 2007–02–09, amendment 39–14896 (72 FR 2612, January 22, 2007), to address this unsafe condition on Model A310 airplanes. Similar to Model A310 aircraft, the

Model A300 and A300–600 aircraft are also affected by this situation, which, if not detected, could affect the structural integrity of the MLG attachment. The aim of the MCAI is to mandate repetitive detailed visual inspections of wing MLG rib 5 aft bearing forward lugs for detection of through cracks and corrective action (contacting Airbus and replacing cracked lugs if necessary). The MCAI notes that for Airbus Model A310 aircraft, refer to EASA Emergency Airworthiness Directive 2006–0335–E, issued November 3, 2006.

Actions and Compliance

(e) Unless already done, do the following actions specified in paragraphs (e)(1), (e)(2), and (e)(3) of this AD in accordance with instructions defined in Airbus Service Bulletin A300–57A6105, dated December 12, 2006; or A300–57A0248, dated December 12, 2006; as applicable.

(1) Before the accumulation of 12,000 total flight cycles since new or since the most recent MLG rib 5 replacement if applicable, or within 10 days after the effective date of this AD, whichever occurs latest: Perform a detailed visual inspection of the LH and RH wing MLG rib 5 aft bearing forward lugs.

(2) If a crack is detected at the LH and/or RH aft bearing forward lug, contact Airbus immediately and proceed with the replacement before further flight.

(3) Repeat the inspection at intervals not to exceed 100 flight cycles.

Other FAA AD Provisions

(f) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, ATTN: Tom Stafford, 1601 Lind Avenue, SW., Renton, Washington 98057–3356, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

(4) *Special Flight Permits:* We are not allowing special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199).

Related Information

(g) Refer to MCAI European Aviation Safety Agency (EASA) Emergency Airworthiness Directive 2006–0372–E, dated December 14, 2006; and Airbus Service Bulletins A300–57A0248 and A300–57A6105, both including Appendix 01, both dated December 12, 2006, for related information.

Material Incorporated by Reference

(h) You must use Airbus Service Bulletin A300–57A0248, excluding Appendix 01, dated December 12, 2006; or Airbus Service Bulletin A300–57A6105, excluding Appendix 01, dated December 12, 2006; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on January 26, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–1883 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26191 Directorate Identifier 2006–CE–60–AD; Amendment 39–14927; AD 2007–03–16]

RIN 2120–AA64

Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as an excessive lateral play caused by a nonconforming washer that might lead to the deterioration of the elevator trim tab bearing fatigue resistance. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 15, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 15, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Albert J. Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 20, 2006 (71 FR 67084). That NPRM proposed to require a check for lateral play of the elevator trim tabs and installation, if necessary, of a setting washer.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received.

Comment Issue: Summary

EADS SOCATA comments that the proposed AD specifies an excessive

lateral play caused by a nonconforming washer, but the excessive lateral play was caused by a nonconforming stop ring manufactured too short. The commenter states that the installation of a washer was the solution for this unsafe condition and not the cause.

The AD wording was taken directly from the associated MCAI (Direction générale de l'aviation civile (DGAC) France AD No. F–2006–028/1 February 2006; Approved by the European Aviation Safety Agency (EASA) on January 24, 2006; EASA Reference No. 2006–0024). France is the State of Design for these airplanes and the FAA determined that AD action was necessary in the United States. For continuity, we will retain this language as specified in the MCAI.

Comment Issue: Cost of Compliance

EADS SOCATA comments that the required parts are washers and cotters pins; the cost of the required part is negligible; and that it would take 1 work-hour to comply.

We will revise the work-hours estimate from 2 work-hours to 1 work-hour and the parts cost from $500 to $5 per EADS SOCATA's comments.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD, and take precedence over the actions copied from the MCAI.

Costs of Compliance

We estimate that this AD will affect about 52 products of U.S. registry. We also estimate that it will take 1 work-hour per product to comply with this AD. The average labor rate is $80 per work-hour. Required parts will cost about $5 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $4,420 or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2007–03–16 EADS SOCATA: Amendment 39–14927; Docket No. FAA–2006–26191; Directorate Identifier 2006–CE–60–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 15, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EADS SOCATA TBM 700 airplanes, serial numbers 271 through 328, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states an excessive lateral play caused by a nonconforming washer might lead to the deterioration of the elevator trim tab bearing fatigue resistance.

Actions and Compliance

(e) Unless already done, within the next 100 hours time-in-service or 12 months, whichever occurs first, after the effective date of this AD, verify there is no lateral play for both elevator trim tabs and correct, as necessary, by installing a setting washer as instructed in the EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–135, ATA No. 55, dated December 2005.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(f) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Albert J. Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(g) Refer to Direction générale de l'aviation civile (DGAC) Airworthiness Directive No.: F–2006–028, dated February 1, 2006, approved by the European Aviation Safety Agency (EASA) on January 24, 2006; and EADS SOCATA TB Aircraft Mandatory Service Bulletin SB 70–135, ATA No. 55, dated December 2005, for related information.

Material Incorporated by Reference

(h) You must use EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–135, ATA No. 55, dated December 2005, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact EADS SOCATA, Direction des Services, 65921 Tarbes Cedex 9, France; telephone: 33 (0)5 62.41.73.00; fax: 33 (0)5 62.41.76.54; or SOCATA Aircraft, INC., North Perry Airport, 7501 Airport Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; fax: (954) 964–4141.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on January 31, 2007.

Margaret Kline,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–1878 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26234 Directorate Identifier 2006–CE–64–AD; Amendment 39–14928; AD 2007–03–17]

RIN 2120–AA64

Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as loose rivets on frames C18 BIS and C19, which could result in a reduced structural integrity of the tail area. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 15, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 15, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Albert J. Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 20, 2006 (71 FR 67084). That NPRM proposed to require an inspection of the rivets on frames C18 BIS and C19, and, if necessary, application of corrective actions. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received.

Comment Issue: Cost of Compliance

EADS SOCATA comments that the inspection would take 0.5 work-hours. If necessary, rivets replacement would never take more than 5 work-hours and if parts are necessary, only rivets and shims are required, and their cost is negligible.

We will revise the work-hours estimate from 18 work-hours to 6 work-hours and the parts cost from $2,300 to $5 per EADS SOCATA's comments.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies.

Any such differences are described in a separate paragraph of the AD, and take precedence over the actions copied from the MCAI.

Costs of Compliance

We estimate that this AD will affect about 272 products of U.S. Registry. We also estimate that it will take 6 work-hours per product to comply with this AD. The average labor rate is $80 per work-hour. Required parts will cost about $5 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $131,920 or $485 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2007–03–17 EADS SOCATA Model TBM 700 Airplanes: Amendment 39–14928; Docket No. FAA–2006–26234; Directorate Identifier 2006–CE–64–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 15, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EADS SOCATA TBM 700 airplanes, all serial numbers, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that loose rivets on frames C18 BIS and C19 were found, which, if not corrected, could result in a reduced structural integrity of the tail area.

Actions and Compliance

(e) Unless already done, within the next 100 hours time-in-service (TIS) or 12 months, whichever occurs later, after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS, accomplish a detailed inspection of the area and apply corrective actions as necessary by doing all the applicable actions in accordance with the accomplishment instructions of the EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–129, ATA No. 53, dated June 2005.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(f) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Albert J. Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(g) Refer to Direction générale de l'aviation civile Airworthiness Directive No F–2005–132, dated August 3, 2005; and EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–129, ATA No. 53, dated June 2005, for related information.

Material Incorporated by Reference

(h) You must use EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–129, ATA No. 53, dated June 2005, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact EADS SOCATA, Direction des Services, 65921 Tarbes Cedex 9, France; telephone: 33 (0)5 62.41.73.00; fax: 33 (0)5 62.41.76.54; or SOCATA Aircraft, INC., North Perry Airport, 7501 Airport Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; fax: (954) 964–4141.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this

material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Kansas City, Missouri, on January 30, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–1877 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25192; Directorate Identifier 2006–NM–004–AD; Amendment 39–14930; AD 2007–03–19]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. That AD currently requires repetitive detailed and eddy current inspections of the main fittings of the main landing gears (MLG) to detect discrepancies, and related investigative/corrective actions if necessary. The AD also currently requires servicing the shock strut of the MLGs; inspecting the shock strut of the MLGs for nitrogen pressure, visible chrome dimension, and oil leakage; and servicing any discrepant strut. This new AD requires installing a new, improved MLG main fitting, which terminates the repetitive inspection and servicing requirements of the existing AD. This AD results from stress analyses that showed certain main fittings of the MLGs are susceptible to premature cracking, starting in the radius of the upper lug. We are issuing this AD to detect and correct premature cracking of the main fittings of the MLGs, which could result in failure of the fittings and consequent collapse of the MLGs during landing.

DATES: This AD becomes effective March 15, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 15, 2007.

On August 13, 2004 (69 FR 41421, July 9, 2004), the Director of the Federal Register approved the incorporation by reference of Bombardier Alert Service Bulletin A601R–32–088, including Appendices A, B, and C, dated February 20, 2003.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Richard Beckwith, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7302; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2004–14–16, amendment 39–13725 (69 FR 41421, July 9, 2004). The existing AD applies to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. That NPRM was published in the **Federal Register** on June 27, 2006 (71 FR 36495). That NPRM proposed to continue to require installing a new, improved main landing gear (MLG) main fitting, which would terminate the repetitive inspection and servicing requirements of the existing AD.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been received on the NPRM.

Request To Change Compliance Time to Cite Dates

Bombardier notes that the proposed compliance time for the corrective action is quite different from that of the parallel Canadian airworthiness directive. The parallel Canadian airworthiness directive specifies a fixed compliance date of December 31, 2008, for MLG main fittings that have part numbers 601R85001–81 and –82. Bombardier calculates that operators of U.S.-registered airplanes would have 12 months beyond that date to accomplish the proposed actions. Bombardier requests that we harmonize the compliance time in the NPRM with the compliance date in Canadian airworthiness directive CF–2003–09R1, dated September 21, 2005, which is the parallel Canadian airworthiness directive referred to in the NPRM. Bombardier points out that it worked with Messier-Dowty and Transport Canada Civil Aviation (TCCA) to consider carefully that date as it relates to fleet safety, MLG supplier capability/logistics, and the capacity of operators and overhaul facilities. Bombardier considers that the different compliance time will create confusion among U.S. operators and cause an unnecessary burden for all parties involved.

We partially agree. We agree that we should harmonize the compliance times in the NPRM with the compliance dates in the Canadian airworthiness directive. To that end, we developed the compliance time of ''within 39 months after the effective date of this AD.'' This 39-month compliance time will give U.S. operators until May 2009 to comply with the AD. This amount of elapsed time is equivalent to that allowed by the Canadian airworthiness directive's compliance date of December 31, 2008. However, we find that this longer compliance time will not adversely affect the level of safety of the affected U.S.-registered airplanes. This issue has been coordinated with TCCA. No change has been made to the AD in this regard.

Request To Incorporate by Reference (IBR) the Service Information

The Modification and Replacement Parts Association (MARPA) requests that we either publish the relevant service information with the AD in the Docket Management System (DMS), or IBR it with the NPRM. MARPA states that the purpose of the IBR system is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents already in the hands of the affected individuals. Traditionally, ''affected individuals'' have been aircraft owners and operators who are generally provided service information by the manufacturer. MARPA states that the group of affected individuals has expanded because

aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. This new class includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations that manufacture or service alternatively certified parts under 14 CFR 21.303 (parts manufacturer approval (PMA)), which do not possess the proprietary service information referenced in the NPRM. MARPA states that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper.

MARPA also comments on our practice of IBR and referencing propriety service information. MARPA asserts that if we IBR proprietary service information with a public document, such as an AD, then that service information loses its protected status and becomes a public document. MARPA further states that ''If a service document is used as a mandatory element of compliance it should not simply be referenced, but should be incorporated into the regulatory document. Public laws by definition must be public, which means they cannot rely upon private writings.''

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

In regard to the commenter's request that service documents be made available to the public by publication in the **Federal Register**, we agree that incorporation by reference was authorized to reduce the volume of material published in the **Federal Register** and the Code of Federal Regulations. However, as specified in the **Federal Register** Document Drafting Handbook, the Director of the OFR decides when an agency may incorporate material by reference. As the commenter is aware, the OFR files documents for public inspection on the workday before the date of publication of the rule at its office in Washington, DC. As stated in the **Federal Register** Document Drafting Handbook, when documents are filed for public inspection, anyone may inspect or copy file documents during the OFR's hours of business. Further questions regarding publication of documents in the **Federal Register** or incorporation by reference should be directed to the OFR.

In regard to the commenter's request to post service bulletins on the Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised. No change to the final rule is necessary in response to this comment.

Request To Reference PMA Parts

MARPA also states that type certificate holders in their service documents universally ignore the possible existence of PMA parts. According to MARPA, this is especially true with foreign manufacturers where the concept may not exist or be implemented in the country of origin. MARPA states that frequently the service bulletin upon which an AD is based will require the removal of a certain part number and the installation of a different part number as a corrective action. MARPA states that this practice runs afoul of 14 CFR 21.303, which permits the development, certification, and installation of alternatively certified parts (PMA). MARPA states that mandating the installation of a certain part number to the exclusion of all other parts is not a favored general practice. According to MARPA, such action has the dual effect of preventing, in some cases, the installation of perfectly good parts, while at the same time prohibiting the development of new parts permitted under 14 CFR 21.303. MARPA states that such a prohibition runs the risk of taking the AD out of the realm of safety and into the world of economics since prohibiting the development, sale, and use of a perfectly airworthy part has nothing to do with safety.

We infer that the commenter would like the AD to permit installation of any equivalent PMA parts so that it is not necessary for an operator to request approval of an alternative method of compliance (AMOC) in order to install an ''equivalent'' PMA part. Whether an alternative part is ''equivalent'' in adequately resolving the unsafe condition can only be determined on a case-by-case basis based on a complete understanding of the unsafe condition. We are not currently aware of any such parts. Our policy is that, in order for operators to replace a part with one that is not specified in the AD, they must request an AMOC. This is necessary so that we can make a specific determination that an alternative part is or is not susceptible to the same unsafe condition.

In response to the commenter's statement regarding a practice that ''runs afoul of 14 CFR 21.303,'' under which the FAA issues PMAs, this statement appears to reflect a misunderstanding of the relationship between ADs and the certification procedural regulations of part 21 of the Federal Aviation Regulations (14 CFR part 21). Those regulations, including section 21.303 of the Federal Aviation Regulations (14 CFR 21.203), are intended to ensure that aeronautical products comply with the applicable airworthiness standards. But ADs are issued when, notwithstanding those procedures, we become aware of unsafe conditions in these products or parts. Therefore, an AD takes precedence over design approvals when we identify an unsafe condition, and mandating installation of a certain part number in an AD is not at variance with section § 21.303.

The AD provides a means of compliance for operators to ensure that the identified unsafe condition is addressed appropriately. For an unsafe condition attributable to a part, the AD normally identifies the replacement parts necessary to obtain that compliance. As stated in section 39.7 of the Federal Aviation Regulations (14 CFR 39.7), ''Anyone who operates a product that does not meet the requirements of an applicable airworthiness directive is in violation of this section.'' Unless an operator obtains approval for an AMOC, replacing a part with one not specified by the AD would make the operator subject to an enforcement action and result in a civil penalty. We have not changed the final rule in this regard.

Request for Compliance With FAA Order 8040.2/Agreement on Parts Replacement

MARPA points out that this AD, as written, does not comply with proposed Order 8040.2 (AD Process for Mandatory Continuing Airworthiness Information (MCAI)), which states in the PMA section: ''MCAI that require replacement or installation of certain parts could have replacement parts approved under 14 CFR 21.303 based on a finding of identicality. We have determined that any parts approved under this regulation and installed should be

subject to the actions of our AD and included in the applicability of our AD.'' MARPA points out that the Small Airplane Directorate has developed a blanket statement that resolves this issue. The statement includes words similar to those in the proposed Order 8040.2.

We recognize the need for standardization on this issue and currently are in the process of reviewing it at the national level. The Transport Airplane Directorate considers that to delay this particular AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

The NPRM did not address PMA parts, as provided in draft FAA Order 8040.2, because the Order was only a draft that was out for comment at the time. After issuance of the NPRM, the Order was revised and issued as FAA Order 8040.5 with an effective date of September 29, 2006. FAA Order 8040.5 does not address PMA parts in ADs. We acknowledge the need to ensure that unsafe PMA parts are identified and addressed in MCAI-related ADs. We are currently examining all aspects of this issue, including input from industry. Once we have made a final determination, we will consider how our policy regarding PMA parts in ADs needs to be revised. We consider that to delay this AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

Conclusion

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD. There are approximately 278 airplanes of U.S. registry that are affected by this AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Fleet cost
Inspections (required by AD 2004–14–16)	4	None	$320, per inspection cycle	$88,960, per inspection cycle.
Replacement (new action)	46	$105,732	$109,412	$30,416,536.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13725 (69 FR 41421, July 9, 2004) and by adding the following new airworthiness directive (AD):

2007–03–19 Bombardier, Inc. (Formerly Canadair): Amendment 39–14930. Docket No. FAA–2006–25192; Directorate Identifier 2006–NM–004–AD.

Effective Date

(a) This AD becomes effective March 15, 2007.

Affected ADs

(b) This AD supersedes AD 2004–14–16.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, serial numbers 7003 and subsequent; certificated in any category; equipped with main landing gear (MLG) main fittings, part numbers (P/N) 601R85001–81 and 601R85001–82 (Messier Dowty Incorporated P/Ns 17064–105 and 17064–106).

Unsafe Condition

(d) This AD results from stress analyses that showed certain main fittings of the MLGs are susceptible to premature cracking, starting in the radius of the upper lug. We are issuing this AD to detect and correct premature cracking of the main fittings of the MLGs, which could result in failure of the fittings and consequent collapse of the MLGs during landing.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Restatement of the Requirements of AD 2004–14–16

Detailed Inspection of Main Fittings of the MLGs

(f) Before the accumulation of 2,500 total flight cycles on the MLGs, or within 250 flight cycles after August 13, 2004 (the effective date of AD 2004–14–16), whichever occurs later: Do a detailed inspection on the main fittings of the MLGs to detect discrepancies (*i.e.*, linear paint cracks or lack of paint (paint peeling), any other paint damage, adhesion, paint bulging, or corrosion), in accordance with Part A of the Accomplishment Instructions of Bombardier Alert Service Bulletin (ASB) A601R–32–088, dated February 20, 2003; or Bombardier ASB 601R–32–088, Revision A, dated June 16, 2005, including Appendices, A, B, and C, dated February 20, 2003. Repeat the inspection thereafter at intervals not to exceed 100 flight cycles until paragraph (k) of this AD is accomplished.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Related Investigative/Corrective Actions

(g) If any discrepancy is detected during any inspection required by paragraph (f) of this AD, before further flight: Do the related investigative/corrective actions in accordance with Part B or F of the Accomplishment Instructions of Bombardier ASB A601R–32–088, including Appendices A and C, dated February 20, 2003; or Bombardier ASB A601R–32–088, Revision A, dated June 16, 2005, including Appendices A, B, and C, dated February 20, 2003. If an eddy current inspection (a related investigative action specified in Part B) is used to confirm the detailed inspection findings, the next eddy current required by paragraph (h) of this AD must be conducted within 500 flight cycles after the eddy current inspection specified in this paragraph, and thereafter at intervals not to exceed 500 flight cycles until paragraph (k) of this AD is accomplished.

Eddy Current Inspection of Main Fittings of the MLGs

(h) At the time specified in paragraph (f) of this AD, do an eddy current inspection on the main fittings of the MLGs to detect cracks, in accordance with Part B of the Accomplishment Instructions of Bombardier ASB A601R–32–088, including Appendix A, dated February 20, 2003; or Bombardier ASB A601R–32–088, Revision A, dated June 16, 2005, including Appendixes, A, B, and C, dated February 20, 2003. Repeat the eddy current inspection thereafter at intervals not to exceed 500 flight cycles, until paragraph (k) of this AD is accomplished. If any crack is found, before further flight, replace the affected main fittings of the MLGs with new or serviceable fittings in accordance with paragraph E.(5) of Part B of the Accomplishment Instructions of the service bulletin or in accordance with paragraph (k) of this AD. If any crack is found after the effective date of this AD, do the replacement in accordance with paragraph (k) of this AD.

Servicing of Shock Struts

(i) Before the accumulation of 2,500 total flight cycles on the MLGs, or within 500 flight cycles after August 13, 2004, whichever occurs later, service the shock strut of the MLGs in accordance with Part C or D, as applicable, of the Accomplishment Instructions of Bombardier ASB A601R–32–088, including Appendix B, dated February 20, 2003; or Bombardier ASB A601R–32–088, Revision A, dated June 16, 2005, including Appendices A, B, and C, dated February 20, 2003.

Shock Strut Inspection

(j) Within 500 flight cycles after completing the servicing required by paragraph (i) of this AD, inspect the shock strut of the MLGs for nitrogen pressure, visible chrome dimension, and oil leakage, in accordance with Part E of the Accomplishment Instructions of Bombardier ASB A601R–32–088, including Appendix B, dated February 20, 2003; or Bombardier ASB A601R–32–088, Revision A, dated June 16, 2005, including Appendices A, B, and C, dated February 20, 2003. Repeat the inspection thereafter at intervals not to exceed 500 flight cycles, until paragraph (k) of this AD is accomplished. If the nitrogen pressure and visible chrome dimensions are found outside the limits (the service bulletin refers to the airplane maintenance manual as the source of defined limits) and/or oil leakage is found, before further flight, service the affected shock strut of the MLGs in accordance with Part C or D, as applicable, of the Accomplishment Instructions of the service bulletin.

New Requirements of This AD

Replacement

(k) Within 39 months after the effective date of this AD: Replace the main fittings of the MLGs, P/Ns 601R85001–81 and 601R85001–82 (Messier Dowty Incorporated P/Ns 17064–105 and 17064–106), with new main fittings, P/Ns 601R85001–83 and 601R85001–84 (Messier Dowty Incorporated P/Ns 17064–107 and 17064–108), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–32–093, Revision B, dated July 14, 2005. Doing this replacement terminates all requirements of paragraphs (f), (g), (h), (i), and (j) of this AD.

Note 2: Bombardier Service Bulletin 601R–32–093, Revision B, refers to Messier-Dowty Service Bulletin M–DT SB17002–32–25, Revision 1, dated October 17, 2003, as an additional source of service information for replacing the main fittings.

Parts Installation

(l) As of the effective date of this AD, no person may install a main fitting of the MLG, P/Ns 601R85001–81 and 601R85001–82 (Messier Dowty Incorporated P/Ns 17064–105 and 17064–106), on any airplane.

No Reporting Required

(m) Although the Accomplishment Instructions of Bombardier ASB A601R–32–088, dated February 20, 2003; and ASB 601R–32–088, Revision A, dated June 16, 2005; specify to report certain information to the manufacturer, this AD does not include that action.

Actions Accomplished in Accordance with Previous Revisions of Service Bulletin

(n) Actions accomplished before the effective date of this AD in accordance with the service bulletins listed in Table 1 of this AD are acceptable for compliance with the actions in paragraph (k) of this AD.

TABLE 1.—PREVIOUS REVISIONS OF SERVICE BULLETIN

Bombardier Service Bulletin	Revision level	Date
601R–32–093	Original	October 17, 2003.
601R–32–093	A	September 21, 2004.

Alternative Methods of Compliance (AMOCs)

(o)(1) The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(p) Canadian airworthiness directive CF–2003–09R1, dated September 21, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(q) You must use the applicable service information in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 2.—ALL MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision level	Date
Bombardier Alert Service Bulletin A601R–32–088, including Appendices A, B, and C.	Original	February 20, 2003.
Bombardier Alert Service Bulletin A601R–32–088, including Appendices A, B, and C, dated February 20, 2003.	A	June 16, 2005.
Bombardier Service Bulletin 601R–32–093	B	July 14, 2005.

(1) The Director of the Federal Register approved the incorporation by reference of the documents in Table 3 of this AD, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

TABLE 3.—NEW MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision level	Date
Bombardier Alert Service Bulletin A601R–32–088, including Appendices A, B, and C, dated February 20, 2003.	A	June 16, 2005.
Bombardier Service Bulletin 601R–32–093	B	July 14, 2005.

(2) On August 13, 2004 (69 FR 41421, July 9, 2004), the Director of the Federal Register approved the incorporation by reference of Bombardier Alert Service Bulletin A601R–32–088, including Appendices A, B, and C, dated February 20, 2003.

(3) Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on January 29, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–1876 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Gentamicin and Betamethasone Spray

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by First Priority, Inc. The ANADA provides for topical use of a gentamicin sulfate and betamethasone valerate topical spray on dogs for the treatment of infected superficial lesions.

DATES: This rule is effective February 8, 2007.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0169, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: First Priority, Inc., 1585 Todd Farm Dr., Elgin, IL 60123, filed ANADA 200–415 for Gentamicin Sulfate Topical Spray (gentamicin sulfate, USP with betamethasone valerate, USP) for use on dogs for the treatment of infected superficial lesions caused by bacteria sensitive to gentamicin. First Priority's Gentamicin Sulfate Topical Spray is approved as a generic copy of Schering-Plough Animal Health Corp.'s GENTOCIN Topical Spray, approved under NADA 132–338. The ANADA is approved as of January 12, 2006, and 21 CFR 524.1044f is amended to reflect the approval and a current format. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 524.1044f, revise the section heading and paragraph (b) to read as follows:

§ 524.1044f Gentamicin and betamethasone spray.

* * * * *

(b) See Nos. 000061, 054925, and 058829 in § 510.600(c) of this chapter.

* * * * *

Dated: January 29, 2007.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E7–2121 Filed 2–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 104 and 120

[USCG–2007–26953]

RIN 1625–ZA12

Technical Amendments; Marine Safety Center Address Change

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: By this final rule, the Coast Guard is making non-substantive changes to the address of delivery for all private mail to the United States Coast Guard Marine Safety Center as it appears in Coast Guard regulations. This rule will have no substantive effect on the regulated public.

DATES: This rule is effective February 8, 2007.

ADDRESSES: Any comments and material received from the public will be made part of docket, USCG–2006–26953, and will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this amendment, call Commander Hung Nguyen, Executive Officer, United States Coast Guard Marine Safety Center, telephone 202–475–3406. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this amendment. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that this technical amendment is exempt from notice and comment rulemaking requirements because the amendment only makes non-substantive mailing address changes. These changes will have no substantive effect on the public; therefore, it is unnecessary to publish an NPRM.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The office of the United States Coast Guard Marine Safety Center will change their procedure for receiving private courier mail, resulting in the need for an address change in the Code of Federal Regulations.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). Because this amendment makes only address changes, we expect the economic impact to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

It is not expected that this amendment will have a significant economic impact on any small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this technical amendment will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This amendment calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this amendment under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this amendment will not result in such an expenditure, we do discuss the effects of this amendment elsewhere in this preamble.

Taking of Private Property

This amendment will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This amendment meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this amendment under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This amendment is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This amendment does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this amendment under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action''

under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This amendment does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and DHS Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(a), of the Instruction from further environmental documentation. Paragraph (34)(a) excludes regulatory actions that are editorial or procedural, such as those updating addresses. Under figure 2–1, paragraph (34)(a), of the Instruction, an Environmental Analysis Check List and a Categorical Exclusion Determination are not required for this technical amendment.

List of Subjects

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 120

Passenger vessels, Reporting and recordkeeping requirements, Security measures, Terrorism.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 104 and 120 as follows:

PART 104—VESSEL SECURITY

■ 1. The authority citation for part 104 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 104.400 [Amended]

■ 2. Amend § 104.400, by revising paragraph (b) to read as follows:

§ 104.400 General.

* * * * *

(b) The VSP must be submitted to the Commanding Officer (MSC), USCG Marine Safety Center, 1900 Half Street, SW., Suite 1000, Room 525, Washington, DC 20024 for visitors. Send all mail to Commanding Officer (MSC), United States Coast Guard, JR10–0525, 2100 2nd Street, SW., Washington, DC 20593, in a written or electronic format. Information for submitting the VSP electronically can be found at *http://www.uscg.mil/HQ/MSC*. Owners or operators of foreign flag vessels that are subject to SOLAS Chapter XI–1 or Chapter XI–2 must comply with this part by carrying on board a valid International Ship Security Certificate that certifies that the verifications required by Section 19.1 of part A of the ISPS Code (Incorporated by reference, see § 101.115 of this subchapter) have been completed. As stated in Section 9.4 of the ISPS Code, part A requires that, in order for the ISSC to be issued, the provisions of part B of the ISPS Code need to be taken into account.

* * * * *

PART 120—SECURITY OF PASSENGER VESSELS

■ 3. The authority citation for part 120 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.

§ 120.305 [Amended]

■ 4. Amend § 120.305, by revising paragraph (a) to read as follows:

§ 120.305 What is the procedure for examination?

(a) You must submit two copies of each Vessel Security Plan required by § 120.300, or of any Terminal Security Plan or annex required or permitted under § 120.303 or § 128.305 of this chapter, to the Commanding Officer (MSC), USCG Marine Safety Center, 1900 Half Street, SW., Suite 1000, Room 525, Washington, DC 20024 for visitors. Send all mail to Commanding Officer (MSC), United States Coast Guard, JR10–0525, 2100 2nd Street, SW., Washington, DC 20593, for examination at least 60 days before embarking passengers on a voyage described in § 120.100.

* * * * *

Dated: January 30, 2007.

Steve Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. E7–2100 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2007–2]

Fees

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule; technical amendment.

SUMMARY: The Copyright Office is making a technical amendment in the regulations regarding fees for recordation of an interim or amended designation of agent to receive notification of claimed infringement under the Copyright Act.

EFFECTIVE DATE: February 8, 2007.

FOR FURTHER INFORMATION CONTACT: Tanya M. Sandros, Acting General Counsel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION: Sec. 512(c) of the Copyright Act, title 17 of the United States Code, provides limitations on service provider liability for storage, at the direction of a user, of copyrighted material residing on a system or network controlled or operated by or for the service provider. The liability limitations apply if, among other things, the service provider has designated an agent to receive notifications of claimed infringement by providing contact information to the Copyright Office and by posting such information on the service provider's publicly accessible website. In this connection, the Copyright Office maintains a directory of service providers' designated agents.

On June 1, 2006, in accordance with the applicable provisions of title 17, the Copyright Office published a final rule

adjusting the Copyright Office fees for recordation of an interim or amended designation of agent to receive notification of claimed infringement under sec. 512(c) of the Copyright Act. The June 1, 2006, final rule included the fee adjustment designation of $80.00 for recordation of an interim designation of agent to receive notification of claimed infringement under sec. 512(c) of the Copyright Act in the new § 201.3(c) fee schedule. However, other technical amendments meant to bring all fees within § 201.3 did not address recordation of an interim or amended designation of agent to receive notification of claimed infringement under sec. 512(c) of the Copyright Act. In order to correct this oversight, we are amending § § 201.38(e) and 201.38(f) to reference the established § 201.3(c) fee schedule for recordation of an interim designation of agent to receive notification of claimed infringement under sec. 512(c)(2).

Because this amendment is being issued simply for purposes of correcting an oversight associated with implementation of the new fee schedule, the Office finds that there is good cause to make the amendment effective immediately.

List of Subjects in 37 CFR Part 201

Copyright, General provisions.

Final Rule

■ In consideration of the foregoing, part 201 of 37 CFR, chapter II is amended in the following manner:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Amend § 201.38 by revising paragraphs (e) and (f) to read as follows:

§ 201.38 Designation of agent to receive notification of claimed infringement.

* * * * *

(e) *Filing.* A service provider may file the Interim Designation of Agent to Receive Notification of Claimed Infringement with the Public Information Office of the Copyright Office, Room LM–401, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE, Washington, DC, during normal business hours, 9 am to 5 pm. If mailed, the Interim Designation should be addressed to: Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Each designation shall be accompanied by a filing fee for Recordation of an Interim Designation of Agent to Receive Notification of Claimed Infringement under section 512(c)(2) in the amount prescribed in § 201.3(c). Designations and amendments will be posted online on the Copyright Office's website (http://www.loc.gov/copyright).

(f) *Amendments.* In the event of a change in the information reported in an Interim Designation of Agent to Receive Notification of Claimed Infringement, a service provider shall file with the Public Information Office of the Copyright Office an amended Interim Designation of Agent to Receive Notification of Claimed Infringement, containing the current information required by § 201.38(c). The amended Interim Designation shall be signed in accordance with the requirements of § 201.38(d) and shall be accompanied by a fee equal to the amount prescribed in § 201.3(c) for Recordation of an Interim Designation of Agent to Receive Notification of Claimed Infringement under section 512(c)(2).

* * * * *

Dated: February 2, 2007

Tanya M. Sandros

Acting General Counsel

[FR Doc. E7–2105 Filed 2–7–07; 8:45 am]

BILLING CODE 1410–30–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0915; FRL–8276–3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Amendments to the Minor New Source Review Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the West Virginia State Implementation Plan (SIP). The revisions set forth the procedures for stationary source reporting and the criteria for obtaining a permit to construct and operate a new stationary source which is not a major stationary source. The rule establishes the requirements for obtaining an administrative update to an existing permit, temporary permit or a general permit, and for filling notifications and maintaining records of changes not otherwise subject to the permit requirements of this rule. The rule establishes public participation requirements as well as procedures for the transfer, suspension and revocation of permits. EPA is approving these revisions to West Virginia's SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on April 9, 2007 without further notice, unless EPA receives adverse written comment by March 12, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0915 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail: campbell.dave@epa.gov*.

C. *Mail:* EPA–R03–OAR–2006–0915, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0915. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your

comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE, Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Rosemarie Nino, (215) 814–3377, or by e-mail at *nino.rose@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On September 10, 2003, the West Virginia Department of the Environmental Protection (WVDEP) submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of amendments to West Virginia Legislative Rule 45 CSR 13 issued by the State of West Virginia on March 6, 2003, and effective June 1, 2003. The State amended the regulations in order to (1) set forth the procedures for stationary source reporting and the criteria for obtaining a permit to construct and operate a new stationary source which is not a major stationary source and to modify a non-major stationary source; (2) establishes the requirements for obtaining an administrative update to an existing permit, temporary permit or a general permit, and for filling notification and maintaining records of changes not otherwise subject to the permit requirements of this rule; and (3) establishes public participation requirements as well as procedures for the transfer, suspension and revocation of permits. West Virginia is seeking approval of these amendments to this rule pursuant to Sections 110(a)(2)(C) and 112(l) of the Clean Air Act, and 40 CFR 51.160 through 51.164.

II. Summary of SIP Revision and Program Review

A. What is being addressed in this document?

West Virginia Legislative Rule 45 CSR 13 is part of the West Virginia SIP approved by the USEPA to assure attainment and maintenance of attainment with the national ambient air quality standards (NAAQS). The proposed revision were initiated by the West Virginia Department of the Environment Protection (WVDEP) as part of an effort to streamline the permitting program by eliminating unnecessary permitting requirements for insignificant sources, broadening the general permit mechanism, reducing agency review timeframes for permit action, modifying applicability thresholds and reducing application fees for general permits.

B. What are the program changes that EPA is approving?

The amendments are summarized as follows:

1. Permitting thresholds for modification and stationary sources have been revised from six (6) pounds per hour (pph) or more or ten (10) tons per year (tpy) or more to six (6) pph and ten (10) tpy or more, or more than 144 pounds per calendar day (ppd) in any regulated air pollutant (Section 2.17.a) and (Section 2.24.b). WVDEP recognizes that both thresholds, the 6 pph and 10 tpy and the 144 ppd have the potential to allow some sources to emit up to 26 tons a year without obtaining a permit, but WVDEP believes the 144 ppd threshold and the Department's authority to prevent ''statutory air pollution'' will serve as useful backstops in those relatively uncommon situations.

2. The de minimis list in Table 45–13B has been expanded to include additional commercial and residential maintenance and upkeep activities. (Table 45–13B, Nos. 39 and 40).

3. WVDEP review times have been shortened from 180 day to 90 days for Class II general permit registrations; 180 days to 60 days for temporary permits; and, 180 days to 45 days for Class I general permits (Section 5.7). WVDEP will be able to meet the deadlines in this rule.

4. Revisions to general permit language to expand authority by removing ''facility-wide'' restriction. Also, a provision for simpler general permits (Class I) has been added which does not require public notice for each Class I registration and requires a smaller fee. WVDEP has added general permit requirements to Section 5.12.

5. A revision to provide authority to revise general permit registrations through administrative updates. (Section 4.)

6. A revision to public notice requirements, from a 45-day notice at draft permit stage, to a 30-day notice and restored 30-day notice by applicant at application stage. (Section 8.4.)

7. A reduction of registration application fees for general permits from $1,000 to $250 for Class I and $500 for Class II general permits, with an exception for ''small businesses'' applying for Class I general permits. Also, an exemption for Class I general permits from the additional fees for NSPS, NESHAPs, etc. (Section 12.1.)

8. Revised language which clarifies that commercial display ad and sign requirements occur contemporaneously with the WVDEP's legal ad (at draft permit stage), unless the applicant wishes to place the ad/sign earlier. (Section 8.4.a and 8.5.a.)

9. Various technical revisions to the rule, i.e., changed Director to Secretary.

III. Final Action

EPA is approving these amendments to West Virginia 45 CSR 13—Permits for Construction, Modification, Relocation and Operation of Stationary sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits and Procedures for Evaluation as a revision to the state's minor new source review program. The amendments are consistent with 40 CFR 51.160 through 51.164 and sections 110 and 112(l) of the Clean Air Act. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on April 9, 2007 without further notice unless EPA receives adverse comment by March 12, 2007. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule,

EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA is approving these amendments to West Virginia 45 CSR 13—Permits for Construction, Modification, Relocation and Operation of Stationary sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits and Procedures for Evaluation as a revision to the state's minor new source review program.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 31, 2007.

James W. Newsom,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (c) is amended by revising the entry 45 CSR 13 to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
45 CSR 13 Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, and Procedures for Evaluation				
*	* * *	*	*	*
Section 45–13–1	General	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–2	Definitions	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–3	Reporting Requirements for Stationary Sources	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–4	Administrative Updates to Existing Permits and General Permit Registrations.	6/01/03	2/08/07 [Insert page number where the document begins]	Section Title Changed.
Section 45–13–5	Permit Application and Reporting Requirements for Construction of and Modifications to Stationary Sources.	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–6	Determination of Compliance of Stationary Sources	6/01/03	2/08/07 Insert page number where the document begins]	
Section 45–13–7	Modeling	6/01/03	2/08/07 Insert page number where the document begins]	
Section 45–13–8	Public Review Procedures	6/01/03	2/08/07 Insert page number where the document begins]	
Section 45–13–9	Public Meetings	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–10	Permit Transfer, Suspension, Revocation and Responsibility	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–11	Temporary Construction or Modification Permits	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–12	Permit Application Fees	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–13	Inconsistency Between Rules	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–14	Statutory Air Pollution	6/01/03	2/08/07 [Insert page number where the document begins]	
Section 45–13–15	Hazardous Air Pollutants	6/01/03	2/08/07 [Insert page number where the document begins]	
Table 45–13A	Potential Emission Rate	6/01/00	2/28/03, 68 FR 9559	(c)(52).
Table 45–13B	De Minimis Sources	6/01/03	2/08/07 [Insert page number where the document begins]	Table Title Change.
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[FR Doc. E7–2126 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R10–OAR–2006–0377; FRL–8249–2]

Outer Continental Shelf Air Regulations Consistency Update for Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule-consistency update.

SUMMARY: EPA is finalizing the updates of the Outer Continental Shelf (''OCS'') Air Regulations proposed in the **Federal Register** on August 22, 2006. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the State of Alaska. The intended effect of approving the OCS requirements for the State of Alaska is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below is incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: *Effective Date:* This rule is effective on March 12, 2007.

This incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of March 12, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2006–0377. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Natasha Greaves, Federal and Delegated Air Programs Unit, Office of Air, Waste, and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop: AWT–107, Seattle, WA 98101; telephone number: (206) 553–7079; e-mail address: *greaves.natasha@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background Information

Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to the U.S. EPA.

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

On August 22, 2006, (71 FR 48879), EPA proposed to approve requirements into the OCS Air Regulations pertaining to the State of Alaska. These requirements are being promulgated in response to the submittal of a Notice of Intent on March 22, 2006, by Shell Offshore, Inc. of Houston, Texas. EPA has evaluated the proposed requirements to ensure that they are rationally related to the attainment or maintenance of Federal or State ambient air quality standards or Part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's State Implementation Plan (''SIP'') guidance or certain requirements of the Act. Consistency updates may result in the inclusion of State or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. Public Comment and EPA Response

EPA's proposed action provided a 30-day public comment period which closed on September 21, 2006. During this period, we received one comment on the proposed action. This comment was submitted by the Alaska Oil and Gas Association (AOGA) by letter dated September 20, 2006.

Comment: AOGA concurs with the Alaska rules identified by EPA as applicable for incorporation into 40 CFR part 55. However, while the proposed rule states that the State of Alaska requirements as of December 3, 2005, are applicable, almost all of the specific sections then listed in Appendix A contain out-of-date effective dates.

Response: EPA reviewed the applicable dates in Appendix A and noted that some of the proposed rules contained out-of-date effective dates. These have been corrected and all the rules now reflect current effective dates.

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

III. EPA Action

In this document, EPA takes final action to incorporate the proposed changes into 40 CFR part 55. Changes were made to the effective dates of the proposed changes to accurately reflect the State of Alaska's Air Quality Control Regulations. EPA is approving the proposed actions under section 328(a)(1) of the Act, 42 U.S.C. 7627. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore.

IV. Administrative Requirements

A. Executive Order 12866:' Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (''OMB'') review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB Review. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

B. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 55, and by extension this update to the rules, under the provisions of the *Paperwork Reduction Act* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0249. Notice of OMB's approval of EPA Information Collection Request (''ICR'') No. 1601.06 was published in the **Federal Register** on March 1, 2006 (71 FR 10499–10500). The approval expires January 31, 2009.

As EPA previously indicated (70 FR 65897–65898 (November 1, 2005)), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable. In addition, EPA is amending the table in 40 CFR part 9 of currently approved OMB control numbers for various regulations to list the regulatory citations for the information requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant economic impact on a substantial number of small entities. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million of more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant

Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any one year. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255 (August 10, 1999)), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. This rule does not amend the existing provisions within 40 CFR part 55 enabling delegation of OCS regulations to a COA, and this rule does not require the COA to implement the OCS rules. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249 (November 9, 2000)), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes and thus does not have ''tribal implications,'' within the meaning of Executive Order 13175. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In addition, this rule does not impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Consultation with Indian tribes is therefore not required under Executive Order 13175.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885 (April 23, 1997)), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. In addition, the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportional risk to children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable laws or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decided not to use available and applicable voluntary consensus standards.

As discussed above, this rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this final rule simply updates the existing OCS rules to make them consistent with current COA requirements. In the absence of a prior existing requirement for the state to use voluntary consensus standards and in light of the fact that EPA is required to make the OCS rules consistent with current COA requirements, it would be inconsistent with applicable law for EPA to use voluntary consensus standards in this action. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate,

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective March 12, 2007.

K. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 2007. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2.)

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 20, 2006.

Elin D. Miller,

Regional Administrator, Region 10.

■ Title 40, chapter I of the Code of Federal Regulations, is to be amended as follows:

PART 55—[AMENDED]

■ 1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Act (42 U.S.C. 7401, et seq.) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by revising paragraph (e)(2)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(A) State of Alaska Requirements Applicable to OCS Sources, December 3, 2005.

* * * * *

■ 3. Appendix A to CFR part 55 is amended by revising paragraph (a)(1) under the heading ''Alaska'' to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated By Reference Into Part 55, By State

* * * * *

Alaska

(a) * * *

(1) The following State of Alaska requirements are applicable to OCS Sources, December 3, 2005, Alaska Administrative Code—Department of Environmental Conservation. The following sections of Title 18, Chapter 50:

Article 1. Ambient Air Quality Management

18 AAC 50.005. Purpose and Applicability of Chapter (effective 10/1/04)
18 AAC 50.010. Ambient Air Quality Standards (effective 10/1/04)
18 AAC 50.015. Air Quality Designations, Classification, and Control Regions (effective 10/10/04) except (d)(2)

Table 1. Air Quality Classifications

18 AAC 50.020. Baseline Dates and Maximum Allowable Increases (effective 10/1/04)

Table 2. Baseline Dates

Table 3. Maximum Allowable Increases

18 AAC 50.025. Visibility and Other Special Protection Areas (effective 6/21/98)
18 AAC 50.030. State Air Quality Control Plan (effective 10/1/04)
18 AAC 50.035. Documents, Procedures, and Methods Adopted by Reference (effective 12/3/05)
18 AAC 50.040. Federal Standards Adopted by Reference (effective 12/3/05) except (b), (c) (d), and (g)
18 AAC 50.045. Prohibitions (effective 10/1/04)
18 AAC 50.050. Incinerator Emissions Standards (effective 5/3/02)

Table 4. Particulate Matter Standards for Incinerators

18 AAC 50.055. Industrial Processes and Fuel-Burning Equipment (effective 10/1/04) except (a)(3) through (a)(9), (b)(4) through (b)(6), (e) and (f)
18 AAC 50.065. Open Burning (effective 1/18/97) except (g) and (h)
18 AAC 50.075. Wood-Fired Heating Device Visible Emission Standards (effective 1/18/97)
18 AAC 50.080. Ice Fog Standards (effective 1/18/97)
18 AAC 50.085. Volatile Liquid Storage Tank Emission Standards (effective 1/18/97)
18 AAC 50.090. Volatile Liquid Loading Racks and Delivery Tank Emission Standards (effective 10/1/04)
18 AAC 50.100 Nonroad Engines (effective 10/1/04)
18 AAC 50.110. Air Pollution Prohibited (effective 5/26/72)

Article 2. Program Administration

18 AAC 50.200. Information Requests (effective 10/1/04)
18 AAC 50.201. Ambient Air Quality Investigation (effective 10/1/04)
18 AAC 50.205. Certification (effective 10/1/04)
18 AAC 50.215. Ambient Air Quality Analysis Methods (effective 10/1/04)

Table 5. Significant Impact Levels (SILs)

18 AAC 50.220. Enforceable Test Methods (effective 10/1/04)
18 AAC 50.225. Owner-Requested Limits (effective 1/29/05)
18 AAC 50.230. Preapproved Emission Limits (effective 1/29/05)
18 AAC 50.235. Unavoidable Emergencies and Malfunctions (effective 10/1/04)
18 AAC 50.240. Excess Emissions (effective 10/1/04)
18 AAC 50.245. Air Episodes and Advisories (effective 10/1/04)

Table 6. Concentrations Triggering an Air Episode

Article 3. Major Stationary Source Permits

18 AAC 50.301. Permit Continuity (effective 10/1/04)
18 AAC 50.302. Construction Permits (effective 10/1/04)
18 AAC 50.306. Prevention of Significant Deterioration (PSD) Permits (effective 10/1/04) except (e)
18 AAC 50.311. Nonattainment Area Major Stationary Source Permits (effective 10/1/04)
18 AAC 50.316. Preconstruction Review for Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (effective 12/1/04) except (c)
18 AAC 50.326. Title V Operating Permits (effective 12/1/04) except (j)(1), (k)(3), (k)(5), and (k)(6)
18 AAC 50.345. Construction and Operating Permits: Standard Permit Conditions (effective 10/1/04)
18 AAC 50.346. Construction and Operating Permits: Other Permit Conditions (effective 10/1/04)

Table 7. Emission Unit or Activity, Standard Permit Condition

Article 4. User Fees

18 AAC 50.400. Permit Administration Fees (effective 1/29/05) except (a), (b), (c)(1), (c)(3), (c)(6), (i)(2), (i)(3), (m)(3) and (m)(4)
18 AAC 50.403. Negotiated Service Agreements (effective 12/3/05) except (8) and (9)
18 AAC 50.405. Transition Process for Permit Fees (effective 1/29/05)
18 AAC 50.410. Emission Fees (effective 12/3/05)
18 AAC 50.499. Definition for User Fee Requirements (effective 1/29/05)

Article 5. Minor Permits

18 AAC 50.502. Minor Permits for Air Quality Protection (effective 12/3/05) except (b)(1), (b)(2), (b)(3) and (b)(5)
18 AAC 50.508. Minor Permits Requested by the Owner or Operator (effective 10/1/04)
18 AAC 50.509. Construction of a Pollution Control Project without a Permit (effective 10/1/04)

18 AAC 50.540. Minor Permit: Application (effective 12/3/05)
18 AAC 50.542. Minor Permit: Review and Issuance (effective 12/1/04) except (b)(1), (b)(2), (b)(5), and (d)
18 AAC 50.544. Minor Permits: Content (effective 1/29/05)
18 AAC 50.546. Minor Permits: Revisions (effective 10/1/04)
18 AAC 50.560. General Minor Permits (effective 10/1/04) except (b)

Article 9. General Provisions

18 AAC 50.990. Definitions (effective 12/3/05)

* * * * *

[FR Doc. E7–2132 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R04–OAR–2006–0140–200605(a); FRL–8276–7]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Florida: Emissions Guidelines for Small Municipal Waste Combustion Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the Clean Air Act (CAA) section 111(d)/129 State Plan submitted by the State of Florida Department of Environmental Protection (Florida DEP) for the State of Florida on November 29, 2001, and subsequently updated on March 11, 2005. The State Plan is for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Small Municipal Waste Combustion (SMWC) units that commenced construction on or before August 30, 1999.

DATES: This direct final rule is effective April 9, 2007 without further notice unless EPA receives adverse comment by March 12, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2006–0140, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: Majumder.joydeb@epa.gov.*
3. *Fax:* (404) 562–9195.
4. *Mail:* ''EPA–R04–OAR–2006–0140,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Deliver your comments to: Joydeb Majumder, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2006–0140.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available (i.e., CBI or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9121. Mr. Majumder can also be reached via electronic mail at *Majumder.joydeb@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 2000, pursuant to CAA sections 111 and 129, EPA promulgated new source performance standards (NSPS) applicable to new SMWC units and EG applicable to existing SMWC units. The NSPS and EG are codified at 40 CFR part 60, subparts AAAA and BBBB, respectively. Subparts AAAA and BBBB regulate the following: Particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

For existing sources, CAA section 129(b)(2) requires states to submit to EPA for approval State Plans that implement and enforce the EG contained in 40 CFR part 60, subpart BBBB. State Plans must be at least as protective as the EG, and become Federally enforceable upon approval by EPA. Pursuant to subpart BBBB, State Plans must include the following items: An inventory of affected SMWC units including those that have ceased operation but have not been dismantled and inventory of emissions; compliance schedules for each affected SMWC unit; Good combustion practices and emission limits for affected SMWC units that are at least as protective as the emission guidelines; Stack testing, continuous emission monitoring, recordkeeping, and reporting requirements; Certification that the hearing on the State Plan was held, a list of witnesses and their organizational

affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; Provision for State progress reports to EPA; Identification of enforceable State mechanisms for implementing the Emission Guidelines; and a demonstration of the State's legal authority to carry out the State Plan. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B.

In this action, EPA is approving the State Plan for existing SMWC units submitted by Florida DEP because it meets the requirements of 40 CFR part 60, subpart BBBB.

II. Discussion

Florida DEP's 111(d) / 129 State Plan for implementing and enforcing the EG for existing SMWC units includes the following: Public Participation—Demonstration that the Public Had Adequate Notice and Opportunity to Submit Written Comments and Attend Public Hearing; Emissions Standards and Compliance Schedules; Emission Inventories, Source Surveillance, and Reports; and Legal Authority. EPA's approval of the State Plan is based on our finding that it meets the nine requirements of 40 CFR part 60, subpart BBBB.

Requirements (1) and (2): Inventory of affected SMWC units, including those that have ceased operation but have not been dismantled and inventory of emissions. Florida DEP submitted an emissions inventory of all designated pollutants for existing SMWC units under their jurisdiction in the State of Florida. This portion of the State Plan has been reviewed and approved as meeting the Federal requirements for existing SMWC units.

Requirement (3): Compliance schedules for each affected SMWC unit. Florida DEP submitted the compliance schedule for existing SMWC units under their jurisdiction in the State of Florida. This portion of the State Plan has been reviewed and approved as being at least as protective as Federal requirements for existing SMWC units.

Requirement (4): Good combustion practices and emission limits for affected SMWC units that are at least as protective as the emission guidelines contained in this subpart. Florida DEP adopted good combustion practice and all emission standards and limitations applicable to existing SMWC units. These combustion practice and emission limitations have been approved as being at least as protective as the Federal requirements contained in subpart BBBB for existing SMWC units.

Requirement (5): Stack testing, continuous emission monitoring, recordkeeping, and reporting requirements. The State Plan contains requirements for stack testing, continuous emission monitoring, recordkeeping, and reporting. This portion of the State Plan has been reviewed and approved as being at least as protective as the Federal requirements for existing SMWC units. The Florida DEP State Plan also includes its legal authority to require owners and operators of designated facilities to maintain records and report on the nature and amount of emissions and any other information that may be necessary to enable Florida DEP to judge the compliance status of the facilities in the State Plan. Florida DEP also submitted its legal authority to provide for periodic inspection and testing and provisions for making reports of existing SMWC unit emissions data, correlated with emission standards that apply, available to the general public.

Requirement (6): Certification that the hearing on the State Plan was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission. Florida DEP held a public hearing on November 27, 2001. The record of the hearing has been prepared and will be retained for public inspection in accordance with 40 CFR 60.23(e). The only comments received on the plan were from EPA Region 4, and certification of the hearing as required has been provided to EPA Region 4.

Requirement (7): Provision for State progress reports to EPA. The Florida DEP State Plan provides for progress reports of plan implementation updates to EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the State Plan has been reviewed and approved as meeting the Federal requirement for State Plan reporting.

Requirement (8): Identification of enforceable State mechanisms for implementing the Emission Guidelines. An enforcement mechanism is a legal instrument by which the Florida DEP can enforce a set of standards and conditions. The Florida DEP has adopted 40 CFR part 60, subpart BBBB, into Florida Administrative Code (F.A.C.) Chapter 62–204. Therefore, Florida DEP's mechanism for enforcing the standards and conditions of 40 CFR part 60, subpart BBBB, is Rule 62–204.800(9)(e). On the basis of this rule and the rules identified in Requirement (9) below, the State Plan is approved as being at least as protective as the Federal requirements for existing SMWC units.

Requirement (9): Demonstration of the State's legal authority to carry out the State Plan. Florida DEP demonstrated legal authority to adopt emissions standards and compliance schedules for designated facilities; authority to enforce applicable laws, regulations, standards, and compliance schedules, and authority to seek injunctive relief; authority to obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require record keeping and to make inspections and conduct tests at designated facilities; authority to require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amount of emissions from such facilities; and authority to make emissions data publicly available.

Florida DEP cites the following references for the legal authority noted above: Florida Statutes (F.S.) 403.031—Definitions, F.S. § 403.061—Department powers and duties, F.S. § 403.0872—Title V air operating permits, and F.S. § 403.8055—Authority to adopt Federal Standards by reference; and Subsections F.S. §§ 403.061(6), (7), (8), and (13) give the authority for obtaining information and for requiring recordkeeping, use of monitors. F.S. § 403.061(35) gives the department authority to exercise the duties, powers, and responsibilities required of the State under the federal Clean Air Act. The sections of the Florida Statues that give authority for compliance and enforcement are 403.121—Judicial and administrative remedies, F.S. § 403.131—Injunctive relief, F.S. § 403.141—Civil remedies, and F.S. § 403.161—Civil and criminal penalties. Finally, F.S. § 119.07 is the authority for making the information available to the public. EPA is approving the State Plan for existing SMWC units submitted by Florida DEP because it meets the requirements of 40 CFR part 60, subpart BBBB.

III. Final Action

In this action, EPA approves the 111(d)/129 State Plan submitted by Florida DEP for the State of Florida to implement and enforce 40 CFR part 60, subpart BBBB, as it applies to existing SMWC units. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed

rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should adverse comments be filed. This rule will be effective April 9, 2007 without further notice unless the Agency receives adverse comments by March 12, 2007.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 9, 2007 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on any paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this rule is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This rule may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control.

Dated: January 19, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

■ Chapter I, title 40 of the Code of Federal Regulation is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart K—Florida

■ 2. Subpart K is amended by adding an undesignated center heading and § 62.2390 to read as follows:

Air Emissions From Small Municipal Waste Combustion (SMWC) Units—Section 111(d)/129 Plan

§ 62.2390 Identification of sources.

The Plan applies to existing Small Municipal Waste Combustion Units that Commenced Construction On or Before August 30, 1999.

[FR Doc. E7–2117 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–76

[FMR Amendment 2005–03; FMR Case 2005–102–8; Docket 2007–0001, Sequence 2]

RIN 3090–AI17

Federal Management Regulation; Real Property Policies Update; Technical Amendment

AGENCY: Office of Governmentwide Policy, General Services Administration.

ACTION: Final rule.

SUMMARY: This document amends the Federal Management Regulation (FMR) to correct an omission from the

amended final rule that was published in the **Federal Register** at 71 FR 52498, September 6, 2006. The original final rule, which was published initially in the **Federal Register** at 70 FR 67786, November 8, 2005, broadly applied GSA's accessibility standards to the design, construction and alteration of buildings subject to the Architectural Barriers Act (other than residential structures subject to the Architectural Barriers Act and facilities of the Department of Defense and the Postal Service), as provided by statute. When the implementation dates for the accessibility standards were amended on September 6, 2006, the amendment inadvertently deleted reference to facilities other than those that were Federally-owned or leased. Accordingly, this final rule corrects this oversight. Except as expressly modified by this final rule, all other terms and conditions of the Architectural Barriers Act standards remain in full force and effect.

DATES: *Effective Date*: February 8, 2007.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GSA Building, 1800 F Street, NW., Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Stanley C. Langfeld, Director, Regulations Management Division, General Services Administration, at (202) 501–1737, or by e-mail at *stanley.langfeld@gsa.gov*. Please cite FMR Case 2005–102–8, Amendment 2005–03, Technical Amendment.

List of Subjects in 41 CFR Part 102–76

Federal buildings and facilities.

Dated: January 25, 2007

Lurita Doan,

Administrator of General Services.

■ For the reasons set forth in the preamble, GSA amends 41 CFR chapter 102 as set forth below:

PART 102–76—DESIGN AND CONSTRUCTION

■ 1. The authority citation for 41 CFR part 102–76 is revised to read as follows:

Authority: 40 U.S.C. 121(c) (in furtherance of the Administrator's authorities under 40 U.S.C. 3301–3315 and elsewhere as included under 40 U.S.C. 581 and 583); 42 U.S.C. 4152; E.O. 12411, 48 FR 13391, 3 CFR, 1983 Comp., p. 155; E.O. 12512, 50 FR 18453, 3 CFR, 1985 Comp., p. 340.

■ 2. Amend section 102–76.5 by adding a sentence to the end of the section to read as follows:

§ 102–76.5 What is the scope of this part?

* * * The accessibility standards in Subpart C of this part apply to Federal agencies and other entities whose facilities are subject to the Architectural Barriers Act.

■ 3. Amend section 102–76.65 by revising the second sentence in the introductory text of paragraph (a) and paragraph (a)(1) to read as follows:

§ 102–76.65 What standards must facilities subject to the Architectural Barrier Act meet?

(a) * * * Facilities subject to the Architectural Barriers Act (other than facilities described in paragraphs (b) and (c) of this section) must comply with ABAAS as set forth below:

(1) For construction or alteration of facilities subject to the Architectural Barriers Act (other than Federal lease-construction and other lease actions described in paragraphs (a)(2) and (3), respectively, of this section), compliance with ABAAS is required if the construction or alteration commenced after May 8, 2006. If the construction or alteration of such a facility commenced on or before May 8, 2006, compliance with the Uniform Federal Accessibility Standards (UFAS) is required.

* * * * *

[FR Doc. E7–2066 Filed 2–7–07; 8:45 am]

BILLING CODE 6820–RH–S

Proposed Rules

Federal Register
Vol. 72, No. 26
Thursday, February 8, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 20, 201, 207, 314, 330, 514, 515, 601, 607, 610, and 1271

[Docket No. 2005N–0403]

RIN 0910–AA49

Requirements for Foreign and Domestic Establishment Registration and Listing for Human Drugs, Including Drugs That Are Regulated Under a Biologics License Application, and Animal Drugs; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening to February 26, 2007, the comment period for the proposed rule published in the **Federal Register** of August 29, 2006 (71 FR 51276). The proposed rule would amend the agency's current regulations governing establishment registration and drug listing. The initial comment period was extended (71 FR 63726, October 31, 2006) until January 26, 2007. We recently learned that, on January 26, 2007, the last day of the comment period, technical problems prevented some persons from submitting electronic comments. Therefore, FDA is reopening the comment period until February 26, 2007, to allow interested persons to submit comments for this rulemaking.

DATES: Submit written or electronic comments on the proposed rule by February 26, 2007.

ADDRESSES: You may submit comments, identified by Docket No. 2005N–0403 and RIN 0910–AA49, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described previously in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No. and Regulatory Information Number (RIN) for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

For information concerning drugs regulated by the Center for Drug Evaluation and Research: John W. Gardner, Center for Drug Evaluation and Research (HFD–330), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–8920, *john.gardner@fda.hhs.gov*.

For information concerning products regulated by the Center for Biologics Evaluation and Research: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210, *valerie.butler@fda.hhs.gov*.

For information concerning animal drugs: Lowell Fried (HFV–212) or Isabel W. Pocurull (HFV–226), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9059 or 240–453–6853, *lowell.fried@fda.hhs.gov* or *isabel.pocurull@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the proposed rule (see **DATES**). Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with Docket No. 2005N–0403. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–2123 Filed 2–7–07; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 51

[EPA–HQ–OAR–2003–0076, FRL–8276–8]

RIN 2060–AH37

Review of New Sources and Modifications in Indian Country

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; announcement of reopening of comment period.

SUMMARY: The EPA is announcing a reopening of the public comment period on our proposed amendments for the Review of New Sources and Modification in Indian Country (August 21, 2006). The EPA is reopening the

comment period that originally ended on January 19, 2007. The reopened comment period will close on March 20, 2007. The EPA is reopening the comment period because of the number of requests we received in a timely manner.

DATES: *Comments.* Comments must be received on or before March 20, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0076, by one of the following methods:

- *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *E-mail: a-and-r-docket@epamail.epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2003–0076, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, Mailcode: 6102T, Washington, DC 20460. Please include a total of 2 copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2003–0076. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0076. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Jessica Montanez, Air Quality Policy Division, U.S. EPA, Office of Air Quality Planning and Standards (C504–03), Research Triangle Park, North Carolina 27711, telephone number (919) 541–3407, facsimile number (919) 541–5509, electronic mail e-mail address: *montanez.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2003–0076.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

B. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the World Wide Web (WWW). Following signature by the EPA Administrator, a copy of this notice will be posted in the regulations and standards section of our NSR home page located at *http://www.epa.gov/nsr* and on the tribal air home page at *http://www.epa.gov/oar/tribal.*

Dated: January 30, 2007.

Jenny Noonan Edmonds,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E7–2101 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0915; FRL–8276–4]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Amendments to the Minor New Source Review Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of West Virginia for the purpose of this rule is to set forth the procedures for stationary source reporting and the criteria for obtaining a permit to construct and operate a new stationary source which is not a major stationary source. The rule establishes the requirements for obtaining an administrative update to an existing permit, temporary permit or a general permit, and for filling notifications and maintaining records of changes not otherwise subject to the permit requirements of this rule. The rule establishes public participation requirements as well as procedures for the transfer, suspension and revocation of permits. EPA is approving these revisions to West Virginia's SIP in accordance with the requirements of the Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by March 12, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0915 by one of the following methods:

A. *www.regulations.gov*.

B. *E-Mail: campbell.dave@epa.gov*.

C. *Mail:* EPA–R03–OAR–2006–0915, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0915. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Rosemarie Nino, (215) 814–3377, or by e-mail at *nino.rose@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: January 31, 2007.

James W. Newsom,

Acting Regional Administrator, Region III.

[FR Doc. E7–2127 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R04–OAR–2006–0140–200605(b); FRL–8276–6]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Florida: Emissions Guidelines for Small Municipal Waste Combustion Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the Clean Air Act (CAA) section 111(d)/129 State Plan submitted by the Florida Department of Environmental Protection (Florida DEP) for the State of Florida on November 29, 2001, and subsequently updated on March 11, 2005. The State Plan is for implementing and enforcing the Emissions Guidelines applicable to existing Small Municipal Waste Combustion (SMWC) units. The State Plan was submitted by Florida DEP to satisfy CAA requirements. In the Rules Section of this **Federal Register**, EPA is approving Florida's State Plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial plan and anticipates no adverse comments. A

detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before March 12, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2006–0140, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: Majumder.joydeb@epa.gov.*

3. *Fax:* (404) 562–9195.

4. *Mail:* ''EPA–R04–OAR–2006–0140,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier.* Deliver your comments to: Joydeb Majumder, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business is Monday through Friday, 8:30 to 4:30, excluding federal holiday's comments. Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9121. Mr. Majumder can also be reached via electronic mail at *Majumder.joydeb@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: January 19, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E7–2118 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 371, 375, 386, and 387

[Docket No. FMCSA–2004–17008]

RIN 2126–AA84

Brokers of Household Goods Transportation by Motor Vehicle

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: FMCSA proposes to amend its regulations to require brokers who arrange the transportation of household goods in interstate or foreign commerce for consumers to comply with additional consumer protection requirements. This rulemaking is in response to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) and a petition for rulemaking from the American Moving and Storage Association. This rulemaking is intended to educate and inform consumers and brokers about fair and competitive business practices proposed by the FMCSA.

DATES: FMCSA must receive your comments by May 9, 2007.

ADDRESSES: You may submit comments, identified by DOT DMS Docket Number FMCSA–2004–17008, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number (FMCSA–2004–17008) or Regulatory Identification Number (RIN) for this rulemaking (RIN 2126–AA84). Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Privacy Act: Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://dms.dot.gov.*

Comments received after the comment closing date will be included in the docket and we will consider late comments to the extent practicable. FMCSA may, however, issue a final rule at any time after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothea Grymes, Household Goods Team, Commercial Enforcement Division, (202) 385–2400, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Legal Basis for the Rulemaking

The Secretary of Transportation's (Secretary) general jurisdiction to establish regulations concerning the procurement by property brokers of for-hire transportation in interstate or foreign commerce is found at 49 U.S.C. 13501. Brokers of household goods are a subset of all property brokers but specifically register with FMCSA as household goods brokers. This rulemaking applies only to household goods brokers procuring for-hire transportation in interstate or foreign commerce. The Secretary is authorized to collect from household goods brokers ''information the Secretary decides is necessary'' to ensure a transportation system that meets the needs of the United States. (49 U.S.C. 13101 and 13301). Brokers of household goods are required to register with the Secretary by 49 U.S.C. 13904(a)(1). Section 4142 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59), which made changes to certain other registration requirements, did not change registration requirements

for household goods brokers. The Secretary also has authority to adopt regulations applicable to registered household goods brokers which ''shall provide for the protection of shippers by motor vehicle.'' (49 U.S.C. 13904(c)) The Secretary's authority to inspect and copy household goods broker records is found at 49 U.S.C. 14122. The Secretary has delegated these various authorities to the FMCSA Administrator. (49 CFR 1.73(a)).

This rulemaking is based on the statutory provisions cited above and on the Household Goods Mover Oversight Enforcement and Reform Act of 2005, otherwise known as Title IV, Subtitle B of SAFETEA–LU. This rulemaking focuses on the business practices of household goods brokers engaged in interstate or foreign commerce. Household goods brokers arrange, but do not perform, the transportation of household goods shipments. FMCSA will address the SAFETEA–LU provisions specifically directed to household goods motor carriers in separate rulemakings, as appropriate.

While section 4205 of SAFETEA–LU contains estimating requirements for household goods motor carriers, the general authority cited above allows FMCSA to establish such requirements for household goods brokers.

Section 4212 of SAFETEA–LU directs the Secretary to require a household goods broker to provide shippers with the following information whenever the broker has contact with a shipper or a potential shipper:

1. The broker's U.S. DOT number.
2. The FMCSA pamphlet titled, ''Your Rights and Responsibilities When You Move.''
3. A list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

Section 4209 adds new civil penalties for unlawful broker estimating practices and increases existing civil penalties for providing motor carrier or broker services subject to FMCSA jurisdiction without being registered with FMCSA.

Existing FMCSA Regulations Applicable to Household Goods Brokers

Household goods brokers have been regulated by FMCSA and its predecessor agencies for many years and a number of regulations apply to them, including registration requirements (49 CFR part 365), process agent requirements (49 CFR part 366) and financial responsibility requirements (49 CFR part 387). Section 387.307 requires property brokers, including household goods brokers, to maintain a surety bond or trust fund agreement in the amount of at least $10,000 to provide for payments to motor carriers or shippers if the broker fails to carry out its agreement to supply transportation by authorized motor carriers.

Part 371 specifies general property broker transaction record requirements, prohibits misrepresentation of the broker's name or non-carrier status, and prohibits certain rebating and compensation practices. Part 379 specifies general recordkeeping time periods.

FMCSA can also issue orders to compel compliance, impose civil monetary penalties, revoke the broker's license, or seek federal court orders to stop statutory and/or regulatory violations. Because household goods brokers do not provide the actual transportation, they are not subject to FMCSA's safety jurisdiction.

Previous Household Goods Rulemaking

FMCSA regulations on household goods motor carriers and the proposed regulations for household goods brokers are intended for the protection of individual shippers (as defined in 49 U.S.C. 13102(13) added by section 4202 of SAFETEA–LU). FMCSA regulations on household goods motor carriers and the proposed regulations for household goods brokers do not apply to corporate, government, or military-arranged and paid moves.

The Interstate Commerce Commission (ICC), one of FMCSA's predecessor agencies, concluded that household goods brokers may not provide estimates directly to shippers.[1] The ICC reasoned that shippers aggrieved by an act or omission of a broker would be unprotected by the household goods consumer protection regulations (currently codified at 49 CFR part 375) because only motor carriers were required to comply with these regulations. This problem was addressed in the Household Goods; Consumer Protection Regulations issued by FMCSA in 2003 (68 FR 35064; June 11, 2003), which substantially revised part 375.[2]

In its 2003 rulemaking, FMCSA added a new § 375.409 that allowed a household goods broker to provide an estimate to a shipper if the following requirements are met:

1. There must be a written agreement between the broker and the motor carrier.
2. The written agreement must provide that the motor carrier adopts the broker's estimate as its own.
3. The motor carrier must ensure compliance with all the requirements of part 375 pertaining to estimates, including the requirement that the motor carrier must relinquish possession of the shipment if the shipper pays the motor carrier 110 percent of a non-binding estimate at the time of delivery.

In the preamble to the 2003 rulemaking FMCSA explained that the individual shipper would not be deprived of the protections provided in part 375, even if the broker could not be held directly responsible for compliance, because the motor carrier would still be held accountable for complying with part 375.

Petition for Rulemaking

On March 6, 2003, the American Moving and Storage Association (AMSA) petitioned FMCSA to initiate a rulemaking to amend 49 CFR part 371, ''Brokers of Property,'' to impose specific additional requirements on household goods brokers. AMSA's main argument for additional rulemaking was its assertion that there were an increasing number of ''moving-related'' Web sites hosted by household goods brokers engaging in unfair business practices.

AMSA's petition states a significant number of the complaints it receives involve the same Internet companies, many of which are based in Florida. AMSA argues the fact these companies are involved in moves having no connection to Florida as an origin or destination demonstrates the impact of the Internet on these household goods broker arrangements and how the Internet is being used to entrap unsuspecting consumers. AMSA states it often receives complaints from consumers who have dealt with a Florida-based Internet broker, who in turn arranged a move from a non-Florida origin to another non-Florida destination. AMSA states once these brokers establish a business relationship with the consumer, they require payment of a deposit of several hundred dollars or more, fade from the picture, and leave the consumer to deal with, in most cases, a motor carrier who has failed to register with FMCSA. AMSA believes that a significant network of unscrupulous household goods brokers and household goods motor carriers is

[1] See *Entry Control of Brokers*, 126 M.C.C. 476 (1977); *Exec-Van Systems, Inc., Broker Application*, 128 M.C.C. 669 (1978); and *Ward Moving & Storage Co., Inc., Household Goods Broker Application*, 132, M.C.C. 589 (1981).

[2] These regulations were interim final rules. Following several technical amendments, the regulations became final rules in July 2005 (70 FR 39949, July 12, 2005).

functioning with the sole purpose of bilking the moving public by demanding charges that bear no relation to the legitimate costs of moving, or by collecting charges for services that are not performed.

AMSA provided ten additional examples of complaints it has received to illustrate the nature of the problems being experienced by the moving public. The examples generally involve circumstances similar to the Florida example discussed in the previous paragraph.

AMSA wants FMCSA to amend our regulations to:

- Specifically name and include household goods brokers in 49 CFR part 371, Brokers of Property;
- Require a household goods broker to identify itself as a broker and provide its location and telephone number;
- Add a requirement for household goods brokers to provide consumers with 49 CFR part 375, Appendix A, the pamphlet ''Your Rights and Responsibilities When You Move;''
- Add a requirement that a household goods broker must only use FMCSA-registered household goods motor carriers (those with a U.S. DOT identification number, insurance on file with us, and registered to transport household goods in interstate or foreign commerce);
- Add a requirement for full written disclosure concerning estimates in advance of the move;
- Add a requirement that the broker will refund consumer deposits if the consumer cancels the shipment;
- Add a requirement to advise the consumer about the existence of the household goods broker's surety bond/trust fund; and
- Add a requirement to report illegal operations of household goods carriers to us.

FMCSA granted AMSA's petition and issued an Advance Notice of Proposed Rulemaking (ANPRM) in 2004 (69 FR 76664; December 22, 2004), which is also available in docket FMCSA–2004–17008. In the ANPRM, FMCSA sought answers to 36 questions related to household goods broker issues. The questions sought to determine the extent to which the public believes a problem exists and, if so, whether regulatory or non-regulatory solutions would best solve the problem. The ANPRM also addressed potential cost-benefit estimates, potential information collection burdens, and other potential impacts. The agency also requested comments on an array of specific regulatory requirements that should be considered.

Summary of Responses to ANPRM

FMCSA received comments from the following nine entities: AMSA; the Owner-Operator Independent Drivers Association, Inc. (OOIDA), an international trade association representing independent owner-operators and professional drivers; the Public Utilities Commission of Ohio (PUCO), the regulator of intrastate household goods brokers in the State of Ohio; James Lamb, a household goods broker registered with FMCSA under the name Carrier Authority.com, Inc.; Tom Kizer, an FMCSA-registered broker doing business as Absolute Transportation Logistics; Timothy Walker, owner of the Web site MovingScam.com; Norman S. Marshall, an attorney; Noble Mountain Tree Farm, a shipper of Christmas trees; and Roger A. Bauer of Western Wholesale Distributing.

Generally, the commenters did not express support for rulemaking action and they did not address many of the specific questions raised in the ANPRM. For example, none of the commenters submitted specific information relating to the questions about the estimated number of household goods brokers, or questions about details of the household goods broker business. Commenters did, however, offer useful information and suggestions in other areas to assist FMCSA to develop this proposal.

Commenters expressed concern that household goods shippers may not be aware they are dealing with a household goods broker rather than a household goods carrier and that FMCSA should require household goods brokers to disclose their status and provide information to facilitate contacting household goods brokers in the event of problems with a shipment. Certain commenters also urged FMCSA to require household goods brokers to deal solely with FMCSA-registered household goods motor carriers to minimize potential problems with a move.

Timothy Walker recommends FMCSA require household goods brokers to disclose which household goods carriers they have agreements with or, at a minimum, which household goods carrier the household goods broker intends to tender the customer's shipment to before the move so customers have adequate time to research the carrier's license status and business history.

James Lamb and PUCO believe that although household goods brokers could play some role in providing written estimates, the primary responsibility for issuing and honoring estimates should continue to remain with the household goods carrier and the household goods broker should be required to advise the customer of this fact.

PUCO and AMSA believe household goods brokers should be required to refund a deposit required by a household goods broker, minus the reasonable cost of any services provided, if the shipper cancels the shipment. James Lamb believes that if a household goods broker requests deposits for a planned shipment, the household goods broker should disclose the deposit's terms to the shipper.

FMCSA has adopted some of the commenters' suggestions in the proposed rule, as discussed in more detail in the section headed ''Proposed Rule''.

Continuing Problems With Household Goods Brokers

While FMCSA has addressed certain household goods broker issues in recent years, a number of problems remain. Based on FMCSA's review of the responses to the ANPRM and complaints about household goods brokers, the agency believes some household goods brokers are acting deceptively, particularly on the Internet. These broker operations use various disguises and facades to mislead vulnerable consumers into believing that they are complying with FMCSA regulations. For example, a consumer may visit a Web site and be presented with misleading information for moving services. The Web sites may list a number of motor carriers that are performing transportation services, however, the list on the Web site may include some motor carriers that do not have operating authority from FMCSA to engage in the interstate transportation of household goods.

There are several factors contributing to the problems experienced by shippers in using household goods brokers:

1. Minimal or no requirement to disclose contact and nature of operations information. The Internet has provided an easy way for companies to advertise; however, it also makes it possible for unscrupulous companies to effectively conceal their identities, avoid disclosing the true nature of their operations, make misrepresentations to consumers, and defraud the moving public.

2. No protection of consumers from unlicensed, illegal motor carriers. Evidence from complaints filed with FMCSA by some consumers show household goods brokers have arranged for transportation by unregistered motor carriers. Such carriers are frequently not accountable to customers, whose

attempts to obtain redress for problems associated with the move may be ignored or otherwise undermined.

3. The practice of quoting estimates of charges without providing written documents. Unscrupulous brokers often fail to give consumers written estimates of charges, which permit them to avoid accountability when conflicts later arise. This is compounded by the fact that consumers are often persuaded to do business with the broker on the basis of an unrealistically low estimate, but may be required to pay substantially higher transportation charges under the tariff of the motor carrier transporting the shipment.

4. No requirement for brokers to disclose refund policy for customers' deposits when shipments are cancelled. Shippers have alleged household goods brokers have consistently not made clear their customer deposit refund policies.

5. No significant identifiable capital investment, reputation and standing in the community, or insurance concerns. Because many household goods brokers make such small investments in their business, there is a lack of incentive to protect this investment by following generally accepted business practices of fair and honest dealings with their customers.

6. Consumer lack of knowledge and experience with moving transactions. Household goods brokers are dealing with a relatively unsophisticated group of shippers who may not be familiar with the applicable regulatory requirements, thus highlighting the need for specific corrective actions to better educate consumers so they can better protect themselves against substantial financial and property losses.

7. Internet brokers providing false or inaccurate information on their Web sites. A number of Internet brokers are providing false or misleading information on their Web sites, contrary to current ''advertising'' requirements in part 371.

The Proposed Rule

This proposal addresses the problems identified above and incorporates requirements mandated by SAFETEA–LU, recommended by AMSA in its petition, and some of the recommendations made by commenters to the ANPRM. FMCSA proposes to amend the current broker regulations in part 371 by adding a new subpart B specifically for household goods brokers; amending appendix B of part 386 to incorporate the civil penalties applicable to household goods brokers added by SAFETEA–LU; and amending part 387 to increase the amount of surety bond or trust fund currently required for household goods brokers. This proposed rule is intended to educate and inform consumers and household goods brokers about fair and competitive business practices the FMCSA believes should be a part of every transaction between individual shippers and household goods brokers.

Impact on Competition

The proposed rule consists of five basic elements:

- It would require household goods brokers to disclose to individual shippers critical information designed to educate the shipper and facilitate a satisfactory moving experience.
- It would require household goods brokers to use only household goods motor carriers that are properly licensed and insured.
- It would impose additional requirements governing estimates, consistent with those statutorily imposed on household goods motor carriers.
- It would incorporate new statutory penalties for providing estimates without a contract with a household goods motor carrier and for operating without being registered with FMCSA.
- It would adjust for inflation the current minimum level of financial responsibility required of household goods brokers.

The proposed disclosure requirements are intended to result in better-educated individual shippers who, armed with information about the household goods moving process, the regulations governing that process, and household goods broker cancellation, deposit and refund policies, will be in a better position to evaluate whether a particular household goods broker or household goods motor carrier best serves their moving needs. A more sophisticated population of customers encourages service providers to compete for their business by offering better quality service, adopting more customer-friendly policies or offering lower prices. The proposed disclosure requirements, therefore, would tend to be pro-competitive.

The proposal to require household goods brokers to verify that the motor carriers they use are properly licensed and registered to transport household goods is intended to ensure that motor carriers compete on a level playing field and customers receive better service. Interstate household goods carriers are required by law to register with FMCSA, maintain minimum levels of public liability and cargo insurance and charge only published tariff rates. Unregistered carriers are more likely to lack the necessary insurance and tariff and to ignore the consumer protection regulations in 49 CFR part 375. It is generally cheaper to operate if a carrier does not comply with the regulatory requirements applicable to its industry. Permitting, or failing to discourage, use of illegal motor carriers penalizes competitors who comply with the regulations and incur the additional costs associated with compliance. By requiring household goods brokers to use registered, compliant carriers, the proposed rule will encourage non-compliant motor carriers to register with FMCSA, thus creating a level playing field that should result in better customer service through the promotion of fair competition and the elimination of unlawful activity.

By requiring household goods brokers to put all estimates in writing based on a physical survey of the household goods (unless the household goods broker or its agent is located more than 50 air-miles from the shipper's location or the shipper waives a physical survey), the proposed rule intends to subject household goods brokers to the same estimating requirements imposed by statute on household goods motor carriers by section 4205 of SAFETEA–LU. Having several written estimates will allow consumers to make more informed choices and level the playing field. Household goods brokers commonly provide telephone estimates without ever viewing the household goods. Experience has shown that such estimates are less reliable than estimates based on a physical survey. Many consumers may not realize this and choose a household goods broker based on a low-ball telephone estimate. However, the ultimate price, based on the shipment's weight, may be considerably higher. By promoting more reliable estimates, the proposal will encourage competition by standardizing the estimating rules and reducing the ''sticker shock'' experienced by consumers at their new residence after receiving and ordering moving services based on unreasonably low estimates.

FMCSA recognizes that SAFETEA–LU did not prescribe estimating requirements for household goods brokers as it did for household goods motor carriers. Nevertheless, we believe that we have existing statutory authority in 49 U.S.C. 13904(c) to do this and that an individual shipper's protection against unreliable estimates should not depend upon whether the shipper uses a broker or carrier to provide the estimate. We also recognize that unlike household goods motor carriers, who maintain office and/or agency locations

in reasonable proximity to most shippers, household good brokers commonly transact business over the Internet, commonly do not have agents, and, in most cases, are located more than 50 miles from the shipping site. Although household goods broker James Lamb commented his company arranges for on-site inspections as a part of its business practices, FMCSA believes most household goods brokers do not arrange for such on-site inspections. The Agency invites public comment on the impact to shippers, brokers and motor carriers of applying or removing the 50 air-mile provision for household goods broker estimates. FMCSA would also like comments on alternatives to the 50-mile requirement. One such alternative might be to require that all estimates provided by household goods brokers and motor carriers be based on a physical survey, regardless of shipper location, unless the individual shipper specifically waives the physical survey requirement.

FMCSA also invites comment on whether permitting individual shippers to waive a physical survey by checking an ''opt-out'' box on-line would satisfy the SAFETEA–LU requirement that physical survey waivers be in the form of a signed, written agreement. The Agency is not specifically proposing an opt-out waiver procedure at this time, but will consider an opt-out waiver or other waiver suggestions aimed at making the waiver process more flexible and convenient, consistent with statutory requirements.

Comments should also address whether electronic waivers can be provided consistent with the provisions of 15 U.S.C. 7001 *et seq.*, the Electronic Signatures in Global and National Commerce Act, Pub. L. 106–229, 114 Stat. 464 (June 30, 2000).

The penalties incorporated by the proposed rule are mandated by statute and are effective even without rulemaking. They are intended to make the cost of noncompliance with the statute significantly higher than the cost of compliance. By encouraging compliance by illegal operators, they are designed to eliminate unfair competitive disadvantages to legitimate operators who must bear the cost of compliance.

The inflation adjustment to the household goods broker minimum financial responsibility requirement applies to all household goods brokers and is based on the fact that the protection provided by the current required surety bond or trust agreement has significantly diminished because the minimum amount has not changed in over 25 years. The proposed change in the requirement should not have an anti-competitive impact. Legitimate household goods brokers who honor their legal obligations will continue to remain in business.

FMCSA invites comments regarding the potential impact of the proposed rule on competition within the household goods moving industry.

Subpart B—Special Rules for Household Goods Brokers

Proposed new subpart B of part 371 for the most part contains new requirements mandated by SAFETEA–LU or suggested by the AMSA Petition for Rulemaking. A few of the proposed requirements in part 371 would echo certain provisions of part 375 applicable to motor carriers of household goods.

Section 371.101 If I operate as a household goods broker in interstate or foreign commerce, must I comply with subpart B of this part?

This proposed section requires household goods brokers that operate in interstate or foreign commerce to comply with all of the provisions of subpart B.

Section 371.103 What are the definitions of terms used in this subpart?

This section contains a definition of ''household goods broker'' and cross references the definitions of ''household goods'' and ''individual shipper'' in § 375.103.

Section 371.105 Must I use a motor carrier that has a valid U.S. DOT number and valid operating authority issued by FMCSA to transport household goods in interstate or foreign commerce?

This proposed section makes it clear that a household goods broker may only act as a household goods broker for a household goods motor carrier that has a valid U.S.DOT number and valid operating authority issued by FMCSA. This proposed requirement was requested by AMSA in its Petition for Rulemaking and was suggested by some of the commenters to the ANPRM. The use of FMCSA-registered household goods motor carriers to provide the transportation will provide a greater degree of assurance that the household goods motor carrier will comply with applicable FMCSA regulations. FMCSA will provide household goods brokers with instructions on the use of the agency's Internet Web site (*http://www.protectyourmove.gov*) to help them quickly locate the registration, insurance, and safety records of household goods motor carriers before tendering a shipment to a household goods carrier. These instructions will be provided in compliance guides to implement this provision, if the agency publishes a final rule. These instructions may also be provided in small entity compliance guides,[3] if the agency must publish such guides in accordance with the Regulatory Flexibility Act.

Section 371.107 What information must I display in my advertisements and Internet web homepage?

Proposed § 371.107 implements the section 4212 of SAFETEA–LU requirements that household goods brokers disclose to potential shippers their Department of Transportation number and that they are not motor carriers providing transportation of household goods. FMCSA is also proposing that household goods brokers disclose additional information not required by SAFETEA–LU, but which FMCSA believes is necessary to properly educate and assist individual shippers. This section would require a household goods broker to prominently display in its advertisements and on its Web site the following:

1. The physical location of the business.
2. Its ''MC'' operating authority number and U.S.DOT registration number.[4]
3. Its status as a household goods broker.
4. A statement that the broker does not transport household goods but that it can arrange for such transportation.

Section 371.109 Must I inform individual shippers which motor carriers I use?

Proposed § 371.109 requires a household goods broker to provide each

[3] For each final rule requiring a final regulatory flexibility analysis, section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104–121, 110 Stat. 857 (codified at 5 U.S.C. 601 *et seq.*) requires Federal agencies to publish one or more small entity compliance guides. FMCSA has determined preliminarily in its analysis under the Regulatory Flexibility Act (5 U.S.C. 601–612), discussed later in this NPRM, that this proposed rule will most likely not have a significant economic impact on all 690 small entity household goods brokers (and any future small entity household goods brokers), but there remains some uncertainty as to the impacts to individual brokers. The agency has prepared an initial regulatory flexibility analysis. FMCSA invites comments on its initial regulatory flexibility analysis.

[4] FMCSA has proposed eliminating the ''MC'' operating authority number in its NPRM of May 19, 2005 (70 FR 28990) regarding the Unified Registration System mandated by the ICC Termination Act of 1995. Until FMCSA publishes a final rule in that proceeding, we propose to include a requirement for the household goods broker to display the ''MC'' number in its advertisements.

shipper or potential shipper who has contact with the household goods broker with a list of all household goods motor carriers used by the broker (including their U.S.DOT and MC numbers) and a statement that the household goods broker is not a motor carrier providing transportation of household goods. This requirement is specifically mandated by section 4212(3) of SAFETEA–LU.

Section 371.111 Must I provide individual shippers with Federal consumer protection information?

Proposed § 371.111 would require a household goods broker to provide potential shippers with one copy of each of the two FMCSA consumer pamphlets: ''Your Rights and Responsibilities When You Move,'' and ''Ready to Move?—Tips for a Successful Interstate Move.'' Section 4212 of SAFETEA–LU requires household goods brokers to distribute publication ESA 03005, entitled ''Your Rights and Responsibilities When You Move''. However, the publication number used in the statute actually refers to ''Ready to Move?—Tips for a Successful Interstate Move''. ''Your Rights and Responsibilities When You Move'' is publication OCE 100. Section 4205 of SAFETEA–LU requires household goods motor carriers to distribute both pamphlets and we propose to impose the same requirement on household goods brokers. Although section 4212 requires household goods brokers to provide consumer protection information ''whenever they have contact with a shipper or potential shipper'', we do not interpret this language to mean that the information must be provided every time there is contact. We believe that Congress intended that this information be furnished to individual shippers at the time an estimate is given and the shipper may not have come into contact with a carrier at that stage of the move. This section permits the household goods broker to make the information available through an Internet home page hyperlink as suggested by PUCO in its comments or by physical distribution to each potential shipper. Providing an Internet home page hyperlink as an option to physical distribution will reduce regulatory burdens on the small entities subject to this proposal. The household goods broker may distribute each of the two publications in the form published by FMCSA or in a modified format published by the household goods motor carrier the household goods broker intends to use to provide the transportation, provided the modifications comply with 49 CFR 375.213.

This section would also require a household goods broker to obtain and retain for three years an electronic or paper receipt showing that the shipper received copies of both documents. This will enable household goods brokers to demonstrate compliance with the distribution requirement.

Section 371.113 May I provide individual shippers with a written estimate?

This proposed section requires that, if the household goods broker provides an estimate, it must be in writing and must be based on a physical survey of the shipper's household goods if the household goods are located within a 50 air-mile radius of the broker or its estimating agent. This proposed section is consistent with 49 U.S.C. 14104(b), as amended by section 4205 of SAFETEA–LU. In accordance with section 4209 of SAFETEA–LU, proposed § 371.113(a) also requires the household goods broker to prepare the estimate in accordance with a signed written agreement with the motor carrier who will actually transport the shipper's household goods.

Proposed § 371.113(b) requires household goods brokers to base their estimates upon the published tariffs of the authorized household goods motor carriers they use.

Proposed § 371.113(c) permits shippers to waive the physical survey requirement.

Proposed § 371.113(d) requires that the records of transactions conducted under this section be retained for as long as a household goods broker provides estimates on behalf of an authorized household goods motor carrier and for three years thereafter for shipments actually arranged for the individual shipper.

Section 371.115 Must I maintain agreements with motor carriers before providing written estimates on behalf of these carriers?

Proposed § 371.115(a) requires household goods brokers to maintain written agreements with authorized household goods motor carriers before providing estimates and lists the items that must be included in these agreements.

Proposed § 371.115(b) states that the signed written agreement required under the section is considered to be public information to be produced on reasonable request of the public.

Proposed § 371.115(c) requires that the agreements required by this section be retained for as long as a household goods broker provides estimates on behalf of the authorized household goods motor carrier and for three years thereafter.

Section 371.117 Must I provide individual shippers with my policies for canceling a shipment?

This proposed section requires a household goods broker to disclose its cancellation policy, deposit policy, and refund policy on its Web site and in its customer agreements. The proposed section also requires the household goods broker to maintain records that document requests for cancellation and the disposition of cancellations, i.e., proof of refunds when made.

FMCSA has found that household goods brokers have consistently retained customer deposits even when the customer cancels the shipment well in advance of the planned moving date. In its Petition for Rulemaking and comments to the ANPRM, AMSA proposed that, before a deposit can be demanded by the household goods broker, the broker must make full disclosure of the terms governing deposits and forfeitures in the event of cancellations. This would add an additional layer of protection for the consumer.

FMCSA does not believe it should mandate the specifics of a household goods broker's refund policies nor require household goods brokers to refund deposits, as the household goods broker may have incurred legitimate costs on behalf of shippers who subsequently decide to not use the household goods broker's services.

Section 371.119 What must I do before I arrange with a motor carrier to transport household goods in interstate or foreign commerce?

This proposed section requires that each household goods broker must ''inspect, verify, and document'' the household goods motor carrier's U.S.DOT registration and MC operating authority validity each month. The household goods broker would comply with this requirement by using FMCSA's Internet Web site (*http://www.protectyourmove.gov*) to check whether the motor carrier has active for-hire authority to transport household goods and evidence of the necessary financial responsibility on file with FMCSA. The household goods broker must print or electronically save a copy of the on-line report(s) showing the information it has verified and must maintain the information for at least three years. FMCSA will provide detailed instructions on how to navigate FMCSA's Internet Web site (*http://*

www.protectyourmove.gov) in its compliance guides to implement this provision, if the agency publishes a final rule. These instructions may also be provided in small entity compliance guides.[5]

In developing this proposal, FMCSA considered requiring household goods brokers to inspect, verify, and document each household goods motor carrier's U.S.DOT registration and MC operating authority numbers before giving a shipper every estimate and before arranging any shipment with a household goods motor carrier. The agency decided not to propose this option because the costs to the 690 registered household goods brokers would increase from approximately $42,400 to about $220,000 per year. The agency is proposing to minimize costs imposed on responsible small household goods brokers to the extent practicable by proposing the checks be made on a monthly basis. See the agency's draft Regulatory Evaluation in docket FMCSA–2004–17008 for more information. FMCSA encourages comments and data, including cost data, on whether any potential final rule on checking carriers' registrations should be more or less frequent than this proposal.

Section 371.121 What penalties may FMCSA impose for violations of this part?

This proposed section states that household goods brokers who violate the provisions of subpart B would be subject to the penalty provisions of 49 U.S.C. chapter 149. It also confirms that these penalty provisions would not deprive a shipper of any other remedies provided by law. Section 4209 of SAFETEA–LU amended 49 U.S.C. 14901(d) by adding new penalties and increasing existing penalties applicable to household goods brokers. See the discussion below under part 386, appendix B. Proposed § 371.121 would parallel current § 375.901.

Part 375—transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations

Section 375.409 May household goods brokers provide estimates?

We propose changing § 375.409 to state that the written agreement between the household goods broker and the household goods motor carrier must contain all of the items required in proposed § 371.115.

[5] See footnote 3 above for a discussion of the small entity compliance guide.

Part 386—Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings

Appendix B to Part 386—Penalty Schedule; Violations and Maximum Monetary Penalties

FMCSA proposes to amend paragraph (g) of appendix B by adding two new provisions to specify the minimum civil penalties for: (1) household goods brokers who make estimates without the necessary contracts with household goods motor carriers in effect; and (2) household goods brokers and household goods motor carriers who operate in interstate commerce without the necessary FMCSA registration. These proposed new paragraphs incorporate into our rules the penalties established in section 4209 of SAFETEA–LU.

Part 387—Minimum Levels of Financial Responsibility for Motor Carriers

Section 387.307 Property broker surety bond or trust fund

FMCSA proposes to add specific language to § 387.307(a) to require household goods brokers to have a surety bond or trust fund in effect for $25,000. The ICC created the financial responsibility requirements for household goods brokers in 1980. The requirement was set at $10,000 to ensure shippers or motor carriers would be paid if the household goods broker failed to carry out its contracts, agreements, or arrangements for the supplying of transportation by authorized household goods motor carriers. Although commenters to the ANPRM stated that the $10,000 requirement for the surety bond/trust fund should be raised, FMCSA does not have adequate data to determine the appropriate amount of increase necessary for the protection of carriers or shippers. Accordingly, FMCSA is proposing to raise the surety bond/trust fund requirement for household goods brokers from $10,000 to $25,000, based on adjustments for inflation. Adjusting the $10,000 minimum figure for inflation as measured by the Consumer Price Index, results in purchasing power of $24,490.29 in 2006. Because a final rule based on this NPRM may not be in effect until 2008, it is reasonable to round up to $25,000. When FMCSA obtains adequate data to propose raising the limit higher than $25,000, FMCSA will consider proposing that higher limit in a future rulemaking or supplemental proposal. We invite public comment on the appropriate level of the surety bond or trust fund.

Regulatory Analyses

Executive Order 12866 (Regulatory Planning and Review); DOT Regulatory Policies and Procedures

FMCSA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 and the U.S. Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979) because there is substantial public interest in the interstate transportation of household goods and related consumer protection regulations.

FMCSA estimates that the maximum first-year discounted costs to the industry of the proposed rule would be about $1.691 million, while maximum first-year discounted costs to society of the proposed rule would be about $1.841 million. Costs in additional years would be dependent on new household goods brokers entering the marketplace, but would be less than incurred during the first year. As such, the costs of this proposal do not exceed the $100 million annual threshold as defined in Executive Order 12866.

FMCSA's full draft Regulatory Evaluation is in the docket for this NPRM. It explains in detail how we estimated cost impacts of the proposal.

This proposal would establish additional consumer protection regulations specifically for household goods brokers to supplement the regulations at 49 CFR part 375, which apply to motor carriers transporting household goods by commercial motor vehicle in interstate commerce.

FMCSA estimates these regulatory changes will produce three primary cost impacts on household goods brokers: (1) Costs of training certain employees on the proper application of the regulatory changes; (2) costs to revise broker marketing materials, forms, and orders for service, including technical writing and printing costs associated with incorporating mandated consumer information pamphlets; and (3) additional information collection burdens associated with the new regulations, especially information collection burdens to travel to and perform on-site physical surveys for written estimates, information collection burdens to make written agreements with household goods motor carriers, and information collection burdens to verify household goods motor carrier authority/insurance validity.

Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), requires Federal agencies, as a part of each rulemaking, to consider regulatory alternatives that minimize the impact on small entities while achieving the objectives of the rulemaking. FMCSA has evaluated the effects of this proposed rule on small entities as required by the RFA. This proposed rule directly affects all household goods brokers required to register with FMCSA, of which there are approximately 690 active, registered household goods brokers. FMCSA estimates 100 percent of these registered household goods brokers are small entities. FMCSA believes, based on its draft Regulatory Evaluation, that this proposed rule will not have a significant impact on a substantial number of small entities, but there remains some uncertainty as to the impacts to individual household goods brokers. FMCSA has prepared an Initial Regulatory Flexibility Analysis. A copy of the Initial Regulatory Flexibility Analysis can be found attached to the draft Regulatory Evaluation in docket FMCSA–2004–17008. (See the last three pages of the Regulatory Evaluation.) FMCSA has chosen not to certify at this stage of the rulemaking that a significant impact will not occur and welcomes comments on our analysis and findings.

Unfunded Mandates Reform Act

This proposed rule does not impose a Federal mandate resulting in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $128.1 million or more in any one year (2 U.S.C. 1531 *et seq.*).

National Environmental Policy Act

The agency analyzed this proposed rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1 published March 1, 2004 (69 FR 9680), that this action is categorically excluded (CE) under Appendix 2, paragraphs 6.d, 6.m, and 6.q of the Order from further environmental documentation. These categorical exclusions relate to rulemaking actions affecting household goods brokers. In addition, the agency believes that the action includes no extraordinary circumstances that would have any effect on the quality of the environment. Thus, the action does not require an environmental assessment or an environmental impact statement.

We have also analyzed this proposed rule under the Clean Air Act, as amended (CAA) section 176(c), (42 U.S.C. 7401 *et seq.*) and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it involves rulemaking and policy development and issuance. See 40 CFR 93.153(c)(2). It would not result in any emissions increase nor would it have any potential to result in emissions that are above the general conformity rule's *de minimis* emission threshold levels. Moreover, it is reasonably foreseeable that the rule would not increase total CMV mileage, change the routing of CMVs, how CMVs operate, or the CMV fleet-mix of motor carriers. This action merely establishes regulations applicable to the business practices of household goods brokers, who do not operate CMVs.

We seek comment on these determinations.

Privacy Impact Assessment

FMCSA conducted a privacy impact assessment of this proposed rule as required by Section 522(a)(5) of the FY 2005 Omnibus Appropriations Act, Pub. L. 108–447, 118 Stat. 3268 (Dec. 8, 2004) [set out as a note to 5 U.S.C. § 552a]. The assessment considers any impacts of the proposed rule on the privacy of information in an identifiable form and related matters. FMCSA has determined this proposal contains no privacy impacts.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), a Federal agency must obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. FMCSA will seek approval of the information collection requirements in a new information collection to be entitled ''Practices of Household Goods Brokers.''

The collected information encompasses that which is generated, maintained, retained, disclosed, and provided to, or for, the agency under 49 CFR part 371. It will assist shippers in their commercial dealings with interstate household goods brokers. The collection of information will be used by prospective shippers to make informed decisions about contracts and services to be ordered, executed, and settled within the interstate household goods motor carrier industry. These information collection items were required by regulations issued by the former ICC; however, that agency was not required to comply with the PRA. When these items transferred from the ICC to the Federal Highway Administration, and ultimately to FMCSA, no OMB control number was assigned to cover this information collection transfer. It was therefore necessary to calculate the old information collection burden hours for these items approved under the ICC rules and to add the new burden that may be generated by this proposal.

Assumptions used for calculation of the information collection burden include the following: (1) There are currently approximately 690 interstate household goods brokers; and (2) FMCSA estimates 125 new household goods brokers will register with FMCSA each year, making them subject to FMCSA regulations.

Table 1 summarizes the information collection burden hours by correlating the information collection activities with the sections of part 371 in which they appear. See attachment A of the supporting statement for the Paperwork Reduction Act Submission in docket FMCSA–2004–17008 for the detailed FMCSA analysis. The table shows whether each information collection activity was required under ICC regulations in 1995.

TABLE 1

Type of burden	Proposed section	First yr. burden	Annual hourly burden	New burden?
Household Goods Broker Transactions	Old 371.3	41,400	41,400	No.
Separate accounting system [6]	Old 371.13	1,000	1,000	No.
Web site and Advertisement Information	371.107	173	32	Yes.
List and Statement	371.109	173	32	Yes.

TABLE 1—Continued

Type of burden	Proposed section	First yr. burden	Annual hourly burden	New burden?
Adding Hyperlinks on Household Goods Broker Web site to FMCSA Booklet Information ''Ready to Move'' and ''Your Rights and Responsibilities When You Move''.	371.111(a)(1)	311	57	Yes.
Distribute FMCSA's Booklets	371.111(a)(2)	1,250	1,250	Yes.
Distribute Household Goods Motor Carrier's Booklets	371.111(a)(3)	1,250	1,250	Yes.
Shipper's Signed and Dated Statement	371.111(b)&(c) ..	29,140	29,140	Yes.
Travel to location within 50 air miles of broker and physically survey household goods.	371.113	37,500	37,500	Yes.
Written agreement with household goods motor carrier	371.115	13,800	2,500	Yes.
Disclose cancellation, deposit, and refund policies	371.117(a)	173	32	Yes.
Disposition of shipper's cancel request	371.117(b)	250	250	Yes.
Carrier monthly operating authority status check	371.119	1,400	1,400	Yes.
''Old'' Burden Hours	.....	42,400	42,400	
New Burden Hours	.....	85,420	73,450	
Total Burden Hours for This Information Collection	.....	127,820	115,850	

[6] FMCSA believes setting up the first accounting system for a new business is a usual and customary business practice. The PRA regulations at 5 CFR 1320.3(b)(2) allows FMCSA to calculate no burden when the agency demonstrates to OMB that the activity needed to comply with the specific regulation is usual and customary. The supporting statement in the docket demonstrates that setting up and accounting system is a usual and customary practice when starting a new business. FMCSA seeks comment on whether setting up the first accounting system for a new business is a usual and customary business practice.

Executive Order 12988 (Civil Justice Reform)

This rulemaking meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, entitled ''Civil Justice Reform,'' to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

FMCSA has analyzed this proposal under Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks.'' The agency does not believe this proposed rulemaking would be economically significant, nor does it concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, entitled ''Governmental Actions and Interference with Constitutionally Protected Property Rights.''

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. The FMCSA has determined that this rulemaking would not have a substantial direct effect on States, nor would it limit the policy-making discretion of the States.

Executive Order 13211 (Energy Effects)

FMCSA has analyzed this proposed action under Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' The agency has determined that it is not a ''significant energy action'' under that order because it does not appear to be economically significant (i.e., a cost of more than $100 million in a single year) based upon analyses performed at this stage of the rulemaking process, and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

List of Subjects

49 CFR Part 371

Brokers, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 375

Advertising, Arbitration, Consumer protection, Freight, Highways and roads, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

49 CFR Part 386

Administrative practice and procedure, Brokers, Freight forwarders, Hazardous materials transportation, Highway safety, Motor carriers, Motor vehicle safety, Penalties.

49 CFR Part 387

Buses, Freight, Freight forwarders, Hazardous materials transportation, Highway safety, Insurance, Intergovernmental relations, Motor carriers, Motor vehicle safety, Moving of household goods, Penalties, Reporting and recordkeeping requirements, Surety bonds.

For the reasons discussed above, FMCSA proposes to amend title 49, Code of Federal Regulations, chapter III, subchapter B, as set forth below:

PART 371—BROKERS OF PROPERTY

1. Revise the authority citation for part 371 to read as follows:

Authority: 49 U.S.C. 13301, 13501, and 14122; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.73.

2. Amend part 371, by adding a new subpart B to read as follows:

Subpart B—Special Rules for Household Goods Brokers

Sec.

Subpart B—Special Rules for Household Goods Brokers

§ 371.101 If I operate as a household goods broker in interstate or foreign commerce, must I comply with subpart B of this part?

Yes, you must comply with all regulations in this subpart if you operate as a household goods broker in interstate or foreign commerce.

§ 371.103 What are the definitions of terms used in this subpart?

Household goods has the same meaning as the term is defined in § 375.103 of this subchapter.

Household goods broker means a person, other than a motor carrier or an employee or bona fide agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation of household goods by motor carrier for compensation.

Individual shipper has the same meaning as the term is defined in § 375.103 of this subchapter.

§ 371.105 Must I use a motor carrier that has a valid U.S. DOT number and valid operating authority issued by FMCSA to transport household goods in interstate or foreign commerce?

You may only act as a household goods broker for a motor carrier that has a valid U.S. DOT number and valid operating authority issued by FMCSA to transport household goods in interstate or foreign commerce.

§ 371.107 What information must I display in my advertisements and Internet web homepage?

(a) You must prominently display in your advertisements and Internet web homepage(s) the physical location(s) (street or highway address) where you conduct business.

(b) You must prominently display your U.S. DOT registration number(s) and MC license number issued by the FMCSA in your advertisements and Internet web homepage(s).

(c) You must prominently display your status as a household goods broker in your advertisements and Internet web homepage(s).

(d) You must prominently display in your advertisements and Internet web homepage(s) that you will not transport an individual shipper's household goods, but that you will arrange for the transportation of the household goods by an FMCSA-authorized household goods motor carrier, whose charges will be determined by its published tariff.

§ 371.109 Must I inform individual shippers which motor carriers I use?

(a) You must provide to each potential individual shipper who contacts you a list of all authorized household goods motor carriers you use, including their U.S. DOT registration number(s) and MC license numbers.

(b) You must provide to each potential individual shipper who contacts you a statement stating you are not a motor carrier authorized by the Federal Government to transport the individual shipper's household goods, and you are only arranging for an authorized household goods motor carrier to perform the transportation services and, if applicable, additional services.

§ 371.111 Must I provide individual shippers with Federal consumer protection information?

(a) You must provide potential individual shippers with Federal consumer protection information by one of the following three methods:

(1) Provide a hyperlink on your Internet web home page to the FMCSA Web page containing the information in FMCSA's publications ''Ready to Move?—Tips for a Successful Interstate Move'' and ''Your Rights and Responsibilities When You Move.''

(2) Distribute to each shipper and potential shipper at the time you provide an estimate, copies of FMCSA's publications ''Ready to Move?—Tips for a Successful Interstate Move'' and ''Your Rights and Responsibilities When You Move.''

(3) Distribute to each shipper and potential shipper at the time you provide an estimate, copies of ''Ready to Move?—Tips for a Successful Interstate Move'' and ''Your Rights and Responsibilities When You Move'' as modified and produced by the authorized, lawful motor carrier you intend to provide the shipment to under your written agreement required by § 371.115.

(b) You must obtain a signed, dated electronic or paper receipt showing the individual shipper has received both booklets.

(c) You must maintain the signed receipt required by paragraph (b) of this section for three years from the date the individual shipper signs the receipt.

§ 371.113 May I provide individual shippers with a written estimate?

(a) You may provide each individual shipper with an estimate of transportation and accessorial charges. If you provide an estimate, it must be in writing and must be based on a physical survey of the household goods if the household goods are located within a 50 air-mile radius of your or your agent's location. The estimate must be prepared in accordance with a signed, written agreement, as specified in § 371.115 of this subpart.

(b) You must base your estimate upon the published tariffs of the authorized motor carrier who will transport the shipper's household goods.

(c) A shipper may elect to waive the physical survey required in paragraph (a) of this section by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and is subject to the same record inspection and preservation requirements as are applicable to bills of lading.

(d) You must keep the records required by this section for three years following the date you provide the written estimate for an individual shipper who accepts the estimate and has you procure the transportation.

§ 371.115 Must I maintain agreements with motor carriers before providing written estimates on behalf of these carriers?

(a) In order to provide estimates of charges for the transportation of household goods, you must do so in accordance with the written agreement required by § 375.409 of this subchapter. Your written agreement with the motor carrier(s) must include the following items:

(1) Your broker name as shown on your FMCSA registration, your physical address, and your U.S. DOT registration number or MC license number;

(2) The authorized motor carrier's name as shown on its FMCSA registration, its physical address, and its U.S. DOT registration number and MC license number;

(3) A concise, easy to understand statement that your written estimate or quote to the individual shipper:

(i) Will be exclusively on behalf of the authorized household goods motor carrier;

(ii) Will be based on the authorized household goods motor carrier's published tariff; and

(iii) Will serve as the authorized household goods motor carrier's estimate for purposes of complying with the requirements of part 375 of this chapter, including the requirement that the authorized household goods motor carrier relinquish possession of the shipment upon payment of no more than 110 percent of the estimate at the time of delivery;

(4) Your owner's, corporate officer's, or corporate director's signature lawfully representing your household goods broker operation and the date;

(5) The signature of the authorized household goods motor carrier's owner, corporate officer, or corporate director lawfully representing the household goods motor carrier's operation and the date; and

(6) A notary public's signature, date, and seal notarizing and attesting to the validity of the signatures on the agreement between the household goods broker and household goods motor carrier.

(b) The signed written agreement required by this section is public information and you must produce it for review upon reasonable request by a member of the public.

(c) You must keep copies of the agreements required by this section for as long as you provide estimates or quotes on behalf of the authorized household goods motor carrier and for three years thereafter.

§ 371.117 Must I provide individual shippers with my policies for canceling a shipment?

(a) You must disclose prominently on your Internet Web site and in your agreements with prospective shippers your cancellation policy, deposit policy, and policy for refunding deposited funds in the event the shipper cancels an order for service before the date an authorized household goods motor carrier has been scheduled to pick up the shipper's property.

(b) You must maintain records showing each individual shipper's request to cancel a shipment and the disposition of each request for a period of three years after the date of a shipper's cancellation request. If you refunded a deposit, your records must include:

(1) Proof that the individual shipper cashed or deposited the check or money order, if the financial institution provides documentary evidence; or

(2) Proof that you delivered the refund check or money order to the individual shipper.

§ 371.119 What must I do before I arrange with a motor carrier to transport household goods in interstate or foreign commerce?

(a) Using the FMCSA's database systems, you must verify and document each month that household goods motor carriers with whom you arrange transportation have an active U.S. DOT registration number, active for-hire operating authority from FMCSA to transport household goods in interstate or foreign commerce, and that the household goods motor carrier has evidence of the necessary insurance coverage on file with FMCSA.

(b) You must maintain the verification documents in paragraph (a) of this section for three years from the date you arrange for a shipment on behalf of an individual shipper by a household goods motor carrier.

§ 371.121 What penalties may FMCSA impose for violations of this part?

The penalty provisions of 49 U.S.C. Chapter 149, *Civil and Criminal Penalties* apply to this subpart. These penalties do not overlap. Notwithstanding these civil penalties, nothing in this section deprives an individual shipper of any remedy or right of action under existing law.

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE; CONSUMER PROTECTION REGULATIONS

3. Revise the authority citation for part 375 to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301, 13704, 13707, 14104, 14706; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.73.

4. Revise § 375.409 to read as follows:

§ 375.409 May household goods brokers provide estimates?

(a) Household goods brokers may provide estimates provided there is a written agreement between the broker and you, the motor carrier, adopting the broker's estimate as your own estimate. If you, the motor carrier, make such an agreement with a household goods broker, you must ensure compliance with all requirements of this part pertaining to estimates, including the requirement that you must relinquish possession of the shipment if the shipper pays you no more than 110 percent of a non-binding estimate at the time of delivery.

(b) Your written agreement with the household goods broker(s) must include the items required in § 371.115(a) of this subchapter.

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS PROCEEDINGS

5. Revise the authority citation for part 386 to read as follows:

Authority: 49 U.S.C. 113, chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315; sec. 206, Pub. L. 106–159, 113 Stat. 1763; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.45 and 1.73.

6. Amend appendix B to part 386 by revising the heading and by adding paragraphs (g)(21) and (22) to read as follows:

Appendix B to Part 386—Penalty Schedule; Violations and Monetary Penalties

* * * * *

(g) * * *

(21) A broker for transportation of household goods who makes an estimate of the cost of transporting any such goods before entering into an agreement with a motor carrier to provide transportation of household goods subject to FMCSA jurisdiction is liable to the United States for a civil penalty of not less than $10,000 for each violation.

(22) A person who provides transportation of household goods subject to jurisdiction under 49 U.S.C. chapter 135, subchapter I, or provides broker services for such transportation, without being registered under 49 U.S.C. chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, is liable to the United States for a civil penalty of not less than $25,000 for each violation.

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

7. The Authority citation for part 387 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, and 31139; and 49 CFR 1.73.

8. Amend § 387.307 by redesignating paragraph (a) as paragraph (a)(1) and adding new paragraph (a)(2) to read as follows:

§ 387.307 Property broker surety bond or trust fund.

(a) *Security.*

(1) * * *

(2) A household goods broker must have a surety bond or trust fund in effect for $25,000. The FMCSA will not issue a household goods broker license until a surety bond or trust fund for the full limits of liability prescribed herein is in effect. The household goods broker license remains valid or effective only as long as a surety bond or trust fund remains in effect and ensures the financial responsibility of the household goods broker.

* * * * *

Issued on: February 2, 2007.

John H. Hill,

Administrator.

[FR Doc. E7–2106 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 72, No. 26
Thursday, February 8, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 2, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: RUS Form 444, ''Wholesale Power Contracts.''

OMB Control Number: 0572–0089.

Summary of Collection: The Rural Electrification Act of 1936 (RE Act) as amended (7 U.S.C. 901 *et seq.*), authorizes the Rural Utilities Service (RUS) to make and guarantee loans that will enable rural consumers to obtain electric power. Rural consumers formed non-profit electric distribution cooperatives, groups of these distribution cooperatives banded together to form Generation and Transmission cooperatives (G&T's) that generate or purchase power and transmit the power to the distribution systems. All RUS and G&T borrowers will enter into a Wholesale Power Contract with their distribution members by using RUS Form 444.

Need and Use of the Information: To fulfill the purposes of the RE Act RUS will collect information to improve the credit quality and credit worthiness of loans and loan guarantees to G&T borrowers. RUS works closely with lending institutions that provide supplemental loan funds to borrowers.

Description of Respondents: Not-for profit institutions; Business or other for-profit.

Number of Respondents: 33.

Frequency of Responses: Reporting: Quarterly.

Total Burden Hours: 198.

Rural Utility Service

Title: Water and Waste Disposal Programs Guaranteed Loans.

OMB Control Number: 0572–0122.

Summary of Collection: The Rural Utilities Service (RUS) is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes for the development of water and waste disposal facilities primarily servicing rural residents. The Waste and Water Disposal Programs (WW) of RUS provide insured loan and grant funds through the WW program to finance many types of projects varying in size and complexity. The Waste and Water Disposal Guaranteed Program is implemented through 7 CFR 1779. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed WW loans.

Need and Use of the Information: Rural Development's field offices will collect information from applicants/borrowers, lenders, and consultants to determine eligibility, project feasibility and to ensure borrowers operate on a sound basis and use loan funds for authorized purposes. There are agency forms required as well as other requirements that involve certifications from the borrower, lenders, and other parties. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds and or unsound loans.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 15.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 858.

Rural Utilities Service

Title: Technical Assistance Program, 7 CFR part 1775.

OMB Control Number: 0572–0112.

Summary of Collection: Section 306 of the Consolidated Farm and Rural Development Act (CONACT), 7 U.S.C. 1926, authorizes Rural Utilities Service (RUS) to make loans and grants to public agencies, American Indian tribes, and nonprofit corporations. The loans and grants fund the development of drinking water, wastewater, and solid waste disposal facilities in rural areas with populations of up to 10,000 residents. Nonprofit organizations receive Technical Assistance and Training (TAT) and Solid Waste Management (SWM) grants to help small rural communities or areas identify and solve problems relating to community drinking water, wastewater, or solid waste disposal systems. The technical assistance is intended to improve the management and operation of the systems and reduce or eliminate pollution of water resources. TAT and SWM are competitive grant programs administered by RUS.

Need and Use of the Information: Nonprofit organizations applying for TAT and SWM grants must submit a pre-application, which includes an application form, narrative proposal, various other forms, certifications and supplemental information. RUS will

collect information to determine applicant eligibility, project feasibility, and the applicant's ability to meet the grant and regulatory requirements. RUS will review the information, evaluate it, and, if the applicant and project are eligible for further competition, invite the applicant to submit a formal application. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, or hindrances in making grants authorized by the TAT and SWM program.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 118.

Frequency of Responses: Reporting: On occasion; Quarterly.

Total Burden Hours: 5,556.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–2091 Filed 2–7–07; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers of Record for the Pacific Southwest Region; California

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Pacific Southwest Region to publish legal notices of all decisions subject to appeal under 36 CFR parts 215 and 217 and to publish notices for public comment and notice of decision subject to the provisions of 36 CFR part 215. Further these newspapers will become the newspapers of record for planning as defined in 36 CFR 219.16 and by notification required under 36 CFR part 218. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions; thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals and objection processes.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made after publication of this notice in the **Federal Register**. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Sue Danner, Regional Appeals and Litigation Manager, Pacific Southwest Region, 1323 Club Drive, Vallejo, California 94592, 707–562–8945.

SUPPLEMENTARY INFORMATION: On June 4, 2003, updated CFR part 215 was published requiring publication of legal notice of decisions subject to appeal. On January 5, 2005, a final rule concerning 36 CFR part 219 was published requiring publication of legal notices as required by 36 CFR 215.5. The newspaper(s) of record for projects in a plan area is (are) the newspaper(s) of record for notices related to planning. Sections 215.5, 217.5, 218.2, and 219.16 require notice published in the **Federal Register** advising the public of the principal newspapers to be utilized for publishing legal notices. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

In addition to the primary newspaper listed for each unit, some Forest Supervisors and District Rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (primary) newspaper listed for each unit.

The newspapers to be used are as follows:

Pacific Southwest Regional Office

Regional Forester Decisions

Sacramento Bee, published daily in Sacramento, Sacramento County, California, for decisions affecting National Forest System lands and for any decision of Region-wide impact.

Angeles National Forest, California

Forest Supervisor Decisions

Los Angeles Times, published daily in Los Angeles, Los Angeles County, California.

District Rangers Decisions

Los Angeles River Ranger District:
Daily News, published daily in Los Angeles, Los Angeles County, California.

Newspapers providing additional notice of Los Angeles River District Ranger decisions:
Pasadena Star News, published in Pasadena, Los Angeles County, California; and
Foothill Leader, published in Glendale, Los Angeles County, California.

San Gabriel River Ranger District:
Inland Valley Bulletin, published daily in Los Angeles, Los Angeles County, California.

Newspaper providing additional notice of San Gabriel River District Ranger decisions:
San Gabriel Valley Tribune, published in the eastern San Gabriel Valley, West Covina, Los Angeles County, California.

Santa Clara/Mojave Rivers Ranger District:
Daily News, published daily in Los Angeles, Los Angeles County, California.

Newspapers providing additional notice of Santa Clara/Mojave Rivers District Ranger decisions:
Antelope Valley Press, published in Palmdale, Los Angeles County, California; and *Mountaineer Progress,* published in Wrightwood, California.

Cleveland National Forest, California

Forest Supervisor Decisions

San Diego Union-Tribune, published daily in San Diego, San Diego County, California.

District Rangers Decisions

Descanso Ranger District:
San Diego Union-Tribune, published daily in San Diego, San Diego County, California.

Palomar Ranger District:
San Diego Union-Tribune, published daily in San Diego, San Diego County, California.

Newspaper providing additional notice of Palomar District Ranger decisions:
Riverside Press Enterprise, published daily in Riverside, Riverside County, California.

Trabuco Ranger District:
Riverside Press Enterprise, published daily in Riverside, Riverside County, California.

Newspaper providing additional notice of Trabuco District Ranger decisions:
Orange County Register, published daily in Santa Ana, Orange County, California.

Eldorado National Forest, California

Forest Supervisor Decisions

Mountain Democrat published four-times weekly in Placerville, El Dorado County, California.

District Rangers Decisions

Mountain Democrat published four-times weekly in Placerville, El Dorado County, California.

Inyo National Forest, California

Forest Supervisor Decisions

Inyo Register published three-times weekly in Bishop, Inyo County, California.

District Rangers Decisions

Inyo Register published three-times weekly in Bishop, Inyo County, California.

Klamath National Forest, California

Forest Supervisor Decisions

Siskiyou Daily News, published daily in Yreka, Siskiyou County, California.

District Rangers Decisions

Siskiyou Daily News, published daily in Yreka, Siskiyou County, California.

Newspaper sometimes providing additional notice of Goosenest District Ranger decisions:
Klamath Falls Herald and News, published daily in Klamath Falls, Klamath County, Oregon.

Lake Tahoe Basin Management Unit, California and Nevada

Forest Supervisor Decisions

Tahoe Daily Tribune, published daily (five-times weekly) in South Lake Tahoe, El Dorado County, California.

Lassen National Forest, California

Forest Supervisor Decisions

Lassen County Times, published weekly in Susanville, Lassen County, California.

District Rangers Decisions

Eagle Lake Ranger District:
Lassen County Times, published weekly in Susanville, Lassen County, California.
Almanor Ranger District:
Chester Progressive, published weekly in Chester, Plumas County, California.
Hat Creek Ranger District:
Intermountain News, published weekly in Burney, Shasta County, California.

Los Padres National Forest, California

Forest Supervisor Decisions

Santa Barbara News Press, published daily in Santa Barbara, Santa Barbara County, California.

District Rangers Decisions

Monterey Ranger District:
Monterey County Herald, published daily in Monterey, Monterey County, California.
Santa Lucia Ranger District:
Telegram Tribune, published daily in San Luis Obispo, San Luis Obispo County, California.
Santa Barbara Ranger District:
Santa Barbara News Press, published daily in Santa Barbara, Santa Barbara County, California.
Ojai Ranger District: *Ventura County Star,* published daily in Ventura, Ventura County, California.
Mt. Pinos Ranger District:
The Bakersfield Californian, published daily in Bakersfield, Kern County, California.

Mendocino National Forest, California

Forest Supervisor Decisions

Chico Enterprise-Record, published daily in Chico, Butte County, California.

District Rangers Decisions

Grindstone Ranger District:
Chico Enterprise-Record, published daily in Chico, Butte County, California.
Upper Lake and Covelo Districts:
Ukiah Daily Journal, published daily in Ukiah, Mendocino County, California.

Modoc National Forest, California

Forest Supervisor Decisions

Modoc County Record, published weekly in Alturas, Modoc County, California.

District Rangers Decisions

Warner Mountain Ranger District:
Modoc County Record, published weekly in Alturas, Modoc County, California.
Devil's Garden Ranger District:
Modoc County Record, published weekly in Alturas, Modoc County, California.
Big Valley Ranger District:
Modoc County Record, published weekly in Alturas, Modoc County, California.
Doublehead Ranger District: *Herald and News,* published daily in Klamath Falls, Klamath County, Oregon.
Newspaper providing additional notice of Doublehead District Ranger decisions:
Modoc County Record, published weekly in Alturas, Modoc County, California.

Plumas National Forest, California

Forest Supervisor Decisions

Feather River Bulletin, published weekly in Quincy, Plumas County, California.

District Rangers Decisions

Beckwourth Ranger District:
Portola Reporter, published weekly in Portola, Plumas County, California.
Newspaper occasionally providing additional notice of Beckwourth District Ranger decisions:
Feather River Bulletin, published weekly in Quincy, Plumas County, California.
Feather River Ranger District:
Oroville Mercury Register, published daily in Oroville, Butte County, California.
Newspaper occasionally providing additional notice of Feather River District Ranger decisions:
Feather River Bulletin, published weekly in Quincy, Plumas County, California.
Mt. Hough Ranger District:
Feather River Bulletin, published weekly in Quincy, Plumas County, California.
Newspapers occasionally providing additional notice of Mt. Hough District Ranger decisions:
Portola Reporter, published weekly in Portola, Plumas County, California; *Chester Progressive,* published weekly in Plumas County, California; and *Lassen County Times,* published weekly in Lassen County, California.

San Bernardino National Forest, California

Forest Supervisor Decisions

San Bernardino Sun, published daily in San Bernardino, San Bernardino County, California.

District Rangers Decisions

Mountaintop Ranger District—Arrowhead Area:
Mountain News, published weekly in Blue Jay, San Bernardino County, California.
Mountaintop Ranger District—Big Bear Area:
Big Bear Life and Grizzly, published weekly in Big Bear, San Bernardino County, California.
Front Country Ranger District:
San Bernardino Sun, published daily in San Bernardino, San Bernardino County, California.
San Jacinto Ranger District:
Idyllwild Town Crier, published weekly in Idyllwild, Riverside County, California.

Sequoia National Forest, California

Forest Supervisor Decisions

Porterville Recorder, published daily (except Sunday) in Porterville, Tulare County, California.

Newspaper occasionally providing additional notice of Forest Supervisor decisions:
The Bakersfield Californian, published daily in Bakersfield, Kern County, California;

District Rangers Decisions

Porterville Recorder, published daily (except Sunday) in Porterville, Tulare County, California.
Newspaper occasionally providing additional notice of District Rangers decisions:
The Bakersfield Californian, published daily in Bakersfield, Kern County, California;

Shasta-Trinity National Forest, California

Forest Supervisor Decisions

Record Searchlight, published daily in Redding, Shasta County, California.

District Rangers Decisions

Record Searchlight, published daily in Redding, Shasta County, California.

Sierra National Forest, California

Forest Supervisor Decisions

Fresno Bee, published daily in Fresno, Fresno County, California.

District Rangers Decisions

Fresno Bee, published daily in Fresno, Fresno County, California.

Six Rivers National Forest, California

Forest Supervisor Decisions

Times Standard, published daily in Eureka, Humboldt County, California.

District Rangers Decisions

Smith River National Recreation Area:
Del Norte Triplicate, published daily (five-times weekly) in Crescent City, Del Norte County, California.
Mad River, Orleans, and Lower Trinity Districts:
Times-Standard, published daily in Eureka, Humboldt County, California.

Stanislaus National Forest, California

Forest Supervisor Decisions

The Union Democrat, published daily (five-times weekly) in Sonora, Tuolumne County, California.

District Rangers Decisions

The Union Democrat, published daily (five-times weekly) in Sonora, Tuolumne County, California.
Newspaper sometimes providing additional notice of Groveland District Ranger decisions:
Mariposa Gazette, published weekly in Mariposa, Mariposa County, California.
Newspaper sometimes providing additional notice of Calaveras District Ranger decisions:
Calaveras Enterprise, published twice weekly in San Andreas, Calaveras County, California.

Tahoe National Forest, California

Forest Supervisor Decisions

The Union, published daily (except Sunday) in Grass Valley, Nevada County, California.

District Rangers Decisions

American River Ranger District:
Auburn Journal, published daily in Auburn, Placer County, California.
Sierraville Ranger District:
Mountain Messenger, published weekly in Downieville, Sierra County, California.
Newspapers providing additional notice of Sierraville District Ranger decisions:
Sierra Booster, published weekly in Loyalton, Sierra County, California; and *Portola Recorder,* published weekly in Portola, Plumas County, California.
Truckee Ranger District: *Sierra Sun,* published five-times weekly in Truckee, Nevada County, California.
Yuba River Ranger District:
The Union, published daily (except Sunday) in Grass Valley, Nevada County, California.
Newspaper providing additional notice of Yuba River District Ranger decisions:
Mountain Messenger, published weekly in Downieville, Sierra County, California.

Dated: January 25, 2007.

Thomas L. Tidwell,

Deputy Regional Forester.

[FR Doc. E7–1599 Filed 2–7–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Province Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Province Advisory Committee will meet on Friday, March 9, 2007, at the Gifford Pinchot National Forest Headquarters, 10600 NE 51st Circle, Vancouver, WA 98682. The meeting will begin at 9:30 a.m. and continue until 4 p.m.

The purpose of the meeting is to share information and receive feedback on: Northwest Forest Plan monitoring ten-year results; Gifford Pinchot National Forest's Fiscal Year 2007 and 2008 timber sale plan; flood and storm damage within the Gifford Pinchot National Forest; and to share information among Committee members.

All Southwest Washington Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides an opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled for 1:30 p.m. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on Committee business at any time.

FOR FURTHER INFORMATION CONTACT: Chris Strebig, Public Affairs Officer, at (360) 891–5005, or write Forest Headquarters Office: Gifford Pinchot National Forest, 10600 NW. 51st Circle, Vancouver, WA 98682.

Dated: February 1, 2007.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 07–550 Filed 2–7–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Availability

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Natural Resources Conservation Service (NRCS) has prepared a plan and environmental assessment (EA) consistent with the National Environmental Policy Act of 1969, as amended. Funding for salinity control projects is available through the Environmental Quality Incentives Program which is covered by a programmatic EA. The Manila-Washam plan and EA were developed to more specifically evaluate the effects associated with this type of water quality activity. Upon review of the information in the Manila-Washam EA, the Utah NRCS State Conservationist made a Finding of No Significant Impact

(FONSI) and the determination was made that no environmental impact statement is required to support the Manila-Washam Plan. Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Manila-Washam Salinity Control Project, Daggett County, Utah; and Sweetwater County, Wyoming. Written comments regarding this action may be submitted to: Sylvia Gillen, State Conservationist, USDA/NRCS, Wallace F. Bennett Federal Building, 125 South State Street, Room 4402, Salt Lake City, UT 84138–1100. Comments must be received no later than 30 days after this notice is published.

DATES: *Effective Date:* February 8, 2007.

FOR FURTHER INFORMATION CONTACT: Sylvia Gillen, State Conservationist, Natural Resources Conservation Service, Wallace F. Bennett Federal Building, 125 South State Street, Room 4402, Salt Lake City, UT 84138–1100; telephone (801) 524–4555.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally-assisted action documents that the project will not cause significant local, regional, State, or national impacts on the human environment. The findings of Sylvia Gillen, State Conservationist, indicate that the preparation and review of an environmental impact statement is not needed for this project.

The project purpose is to reduce salt loading to the Green River, a tributary to the Colorado River. Excessive loading is a result of seepage from the canal and delivery ditch systems and inefficient irrigation application methods and procedures. The planned works of improvement include replacement of delivery ditches with an on-farm underground pipeline delivery system; the installation of irrigation sprinkler systems; structures for water control; and wildlife habitat development. These enduring practices are accompanied by facilitating management practices such as; Irrigation Water Management, Wildlife Habitat Management Wetland, and Wildlife Habitat Management Upland.

This Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. Copies of the FONSI and Plan/Environmental Assessment are available by request from Sylvia Gillen, Utah State Conservationist. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Sylvia Gillen, Utah State Conservationist. Copies of the Plan/Environmental Assessment and FONSI may be obtained from Ms. Karyl Fritsche, District Conservationist, USDA/NRCS, 80 North, 500 West, Vernal, UT 84078; telephone: (435) 789–2100; extension 32.

No administrative action on implementation of this project will be taken until 30 days after the date of this notice is published.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.902, Soil and Water Conservation and Environmental Quality Incentive Program 10.912.)

Signed in Salt Lake City, Utah, on January 25, 2007.

Sylvia A. Gillen,

State Conservationist.

[FR Doc. E7–2058 Filed 2–7–07; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020207A]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Whiting Committee Meeting in February, 2007, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Wednesday, February 28, 2007, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review and discuss updated small mesh multispecies stock and fishery information. The committee will also continue development of a range of alternatives for inclusion in an Amendment to address the management of small mesh multispecies (whiting, red hake, offshore hake). Management measures to be discussed at the meeting may include, but are not limited to: the specification of maximum sustainable yield (MSY) and optimum yield (OY) for the fishery; establishment of total allowable catch (TAC) levels; and a limited access program for the whiting fishery. Other topics may be covered at the committee's discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 2, 2007.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E7–2038 Filed 2–7–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020207B]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Shrimp Review Panel, in Charleston, SC.

DATES: The meeting will take place February 26–27, 2007. The meeting will be held from 1 p.m. to 5 p.m. on February 26, and from 8:30 a.m. to 12 noon on February 27.

ADDRESSES: The meeting will be held at the South Atlantic Fishery Management Council office, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; e-mail: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The meeting is being convened to address the condition of the pink shrimp stock and over-wintering of white shrimp. Amendment 6 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region established a proxy for a minimum stock size threshold as a parent stock size capable of producing maximum sustainable yield (BMSY) the following year. The annual estimates of this BMSY proxy have been below the threshold value for more than two consecutive years. This situation may require future action by the Council, based on the findings and recommendations of its Shrimp Review Panel.

If necessary, the Panel may also make a recommendation on closing the Exclusive Economic Zone (EEZ) to protect over-wintering white shrimp if a closure is requested by the states. The Panel will prepare a report regarding its recommendations and forward it to the Council's Scientific and Statistical Committee and the Shrimp Committee to determine if further action is needed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: February 2, 2007.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E7–2039 Filed 2–7–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 9, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 2, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Extension.

Title: State Proposals for Recognition of Rigorous Secondary School Programs of Study.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 38.

Burden Hours: 190.

Abstract: This information is required of States in order for the Secretary of Education to carry out the Academic Competitiveness Grant (ACG) Program to implement provisions of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Reconciliation Act of 2005 (HERA). The information will be used to determine whether the Secretary may recognize as rigorous, secondary school programs of study proposed by an individual State Educational Agency (SEA) or, if legally authorized by the State to establish a separate secondary school program of study, a Local Educational Agency (LEA). Participation in a rigorous secondary school program of study may qualify a postsecondary student to receive an ACG, if otherwise eligible.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3275. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to

ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–2062 Filed 2–7–07; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Petitions IV–2005–3 and –4 and IV–2006–1 and –2; FRL–8276–1]

Clean Air Act Operating Permit Program; Petitions for Objection to State Operating Permit Renewals for Georgia Power Company—Bowen Steam-Electric Generating Plant, Cartersville (Bartow County), GA; Branch Steam-Electric Generating Plant, Milledgeville (Putnam County), GA; Hammond Steam-Electric Generating Plant, Coosa (Floyd County), GA; and Scherer Steam-Electric Generating Plant, Juliette (Monroe County), GA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petitions to object to state operating permit renewals.

SUMMARY: Pursuant to Clean Air Act Section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an order, dated January 8, 2007, denying four (4) petitions to object to state operating permit renewals issued by the Georgia Environmental Protection Division (EPD) to Georgia Power Company for the following facilities: Bowen Steam-Electric Generating Plant (Plant Bowen), located in Cartersville, Bartow County, Georgia; Branch Steam-Electric Generating Plant (Plant Branch), located in Milledgeville, Putnam County, Georgia; Hammond Steam-Electric Generating Plant (Plant Hammond), located in Coosa, Floyd County, Georgia; and Scherer Steam-Electric Generating Plant (Plant Scherer), located in Juliette, Monroe County, Georgia. This order constitutes final action on the four (4) petitions submitted by Georgia Center for Law in the Public Interest (GCLPI or the Petitioner), on behalf of the Sierra Club, Georgia Public Interest Research Group, and Coosa River Basin Initiative. Pursuant to section 505(b)(2) of the Clean Air Act (the Act), any person may seek judicial review of the Order in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307 of the Act.

ADDRESSES: Copies of the final Order, the petitions, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The final Order is also available electronically at the following address: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/georgiapowerr renewals_decision 2005&2006.pdf*.

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov*.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review and, as appropriate, to object to operating permits proposed by state permitting authorities under title V of the Act, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the Act and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

EPA received two (2) petitions each on December 22, 2005 (for Plants Bowen and Branch), and January 3, 2006 (for Plants Hammond and Scherer), requesting that EPA object to state title V operating permit renewals issued by EPD to Georgia Power for the aforementioned sources. The Petitioner maintains that the Georgia Power permit renewals are not in compliance with the Act because: (1) They failed to require compliance schedules to bring the sources into compliance with applicable opacity standards and (2) they were not accompanied by adequate statements of basis. Furthermore, related to Plants Bowen and Scherer, the Petitioner alleges that the permit renewals are not in compliance with the Act because they failed to require compliance schedules to bring the sources into compliance regarding prevention of significant deterioration requirements.

On January 8, 2007, the Administrator issued an order denying the four (4) petitions. The Order explains the reasons behind EPA's decision to deny the petitions for objection on all grounds.

Dated: January 30, 2007.

J. I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E7–2131 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–8115–6]

Access to Confidential Business Information by Lockheed-Martin Services, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document supersedes the January 31, 2007 (72 FR 4502) (FRL–8112–1) **Federal Register** notice authorizing access to Confidential Business Information (CBI) by EPA's contractor, Lockheed-Martin Services, Inc. of Cherry Hill, NJ, and its subcontractors. This action corrects an administrative error in the date of access to CBI by Lockheed-Martin Services, Inc. of Cherry Hill, NJ, and its subcontractors. EPA by this document authorizes its contractor, Lockheed-Martin Services, Inc. of Cherry Hill, NJ, and its subcontractors, to access information which has been submitted to EPA under sections 4, 5, 6, 7, 8, 12, and 13 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be CBI.

DATES: Access to the confidential data will occur no sooner than February 15, 2007.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Pamela Moseley, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8956; fax number: (202) 564–8955; e-mail address: *pamela.moseley@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under TSCA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket's index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, andsign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Action is the Agency Taking?

Under EPA contract number 68–W–04–005, contractor Lockheed-Martin Services, Inc. of 2339 Route 70 West, Floor 3W, Cherry Hill, NJ, and its subcontractors Bearing Point of 1676 International Dr., McLean, VA; Intervise of 12 South Summit Ave., Suite 100, Gaithersburg, MD; McDonald Bradley of 2250 Corporate Park Dr., Suite 500, Herndon, VA; and Subsidium of 115 Chester St., Front Royal, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in Management Systems architecture design, integration, testing, and development. They will also assist with project management, scheduling, and support of the Enterprise Content Management System (ECMS).

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W–04–005, Lockheed-Martin Services, Inc. and its subcontractors will require access to CBI submitted to EPA under sections 4, 5, 6, 7, 8, 12, and 13 of TSCA to perform successfully the duties specified under the contract. Lockheed-Martin Services, Inc. and its subcontractor personnel will be given access to information submitted to EPA under sections 4, 5, 6, 7, 8, 12, and 13 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 7, 8, 12, and 13 of TSCA that EPA may provide Lockheed-Martin Services, Inc. and its subcontractors access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters.

Lockheed-Martin Services, Inc. and its subcontractors will be authorized access to TSCA CBI at EPA Headquarters under the EPA *TSCA CBI Protection Manual*.

Clearance for access to TSCA CBI under this contract may continue until January 8, 2009, unless such access is extended.

Lockheed-Martin Services, Inc. and its subcontractors personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: February 5, 2007.

Brion Cook,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 07–587 Filed 2–6–07; 1:10 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–8115–7]

Access to Confidential Business Information by Syracuse Research Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document supersedes the January 31, 2007 (72 FR 4501) (FRL–8111–9) **Federal Register** notice authorizing access to Confidential Business Information (CBI) by EPA's contractor, Syracuse Research Corporation (SRC) of Arlington, VA, and its subcontractor. This action corrects an administrative error in the date of access to CBI by SRC of Arlington, VA, and its subcontractor. EPA by this document authorizes its contractor, SRC of Arlington, VA, and its subcontractor, to access information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be CBI.

DATES: Access to the confidential data will occur no sooner than February 15, 2007.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Pamela Moseley, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8956; fax number: (202) 564–8955; e-mail address: *pamela.moseley@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under TSCA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions

regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket's index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the **''Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Action is the Agency Taking?

Under EPA contract number EP–W–07–021, contractor SRC of 2451 Crystal Dr., Suite 804, Arlington, VA, and its subcontractor BeakerTree Corporation of 13402 Birch Bark Court, Fairfax, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in reviewing Premanufacture Notices (PMNs). They will also assist in preparing chemical reviews for the TSCA New Chemicals Review Program. This includes preparing documents to be used for Chemical Review Search Strategy and Structure Activity Team meetings. The contractors require access to current and past cases to fulfill these duties.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number EP–W–07–021, SRC and BeakerTree will require access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA to perform successfully the duties specified under the contract. SRC and BeakerTree personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide SRC and BeakerTree access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and the SRC site located at 2451 Crystal Dr., Suite 804, Arlington, VA.

SRC and BeakerTree will be authorized access to TSCA CBI at EPA Headquarters under the EPA *TSCA CBI Protection Manual*.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2010, unless such access is extended.

SRC and BeakerTree personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: February 5, 2007.

Brion Cook,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 07–588 Filed 2–6–07; 1:10 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8277–1]

Science Advisory Board Staff Office; Notification of Two Public Teleconferences of the Science Advisory Board Committee on Valuing the Protection of Ecological Systems and Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Committee on Valuing the Protection of Ecological Systems and Services (C–VPESS) to discuss components of a draft report related to valuing the protection of ecological systems and services.

DATES: The SAB will conduct two public teleconferences on April 3, 2007 and April 10, 2007. Each teleconference will begin at 12:30 p.m. and end at 2:30 p.m. (eastern standard time).

Location: Telephone conference call only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning this public teleconference may contact Dr. Angela Nugent, Designated Federal Officer (DFO), *via telephone at:* (202) 343–9981 *or e-mail at: nugent.angela@epa.gov*. General information concerning the EPA Science Advisory Board can be found on the EPA Web Site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: Background on the SAB C–VPESS and its charge was provided in 68 FR 11082 (March 7, 2003). The two new teleconferences replace teleconferences previously announced in 71 FR 78202–78203 (December 28, 2006) for February 5, 2007 and February 13, 2007. The purpose of the teleconferences is for the SAB C–VPESS to discuss components of a draft advisory report calling for expanded and integrated approach for valuing the protection of ecological systems and services. The Committee will discuss draft assessments of methods for ecological valuation and application of those methods for valuing the protection of ecological systems and services.

These activities are related to the Committee's overall charge: to assess Agency needs and the state of the art and science of valuing protection of ecological systems and services and to identify key areas for improving knowledge, methodologies, practice, and research.

Availability of Meeting Materials: Agendas and materials in support of the teleconferences will be placed on the SAB Web Site at: *http://www.epa.gov/sab/* in advance of each teleconference.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the public teleconference and/or meeting. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public SAB teleconference will be limited to three minutes per speaker, with no more than a total of one-half hour for all speakers. To be placed on the public speaker list, interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail) 5 business days in advance of each teleconference. *Written Statements:* Written statements should be received in the SAB Staff Office 5 business days in advance of each teleconference above so that the information may be made available to the SAB for their consideration prior to each teleconference. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at (202) 343–9981 or *nugent.angela@epa.gov.* To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: February 1, 2007.

Anthony Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–2113 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8276–9]

Science Advisory Board Staff Office; Notification of a Public Meeting of the Science Advisory Board Hypoxia Advisory Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA's Science Advisory Board (SAB) Staff Office is announcing a public meeting of the SAB Hypoxia Advisory Panel to discuss the science concerning the hypoxic zone in the Gulf of Mexico.

DATES: The meeting will be held from February 28–March 2, 2007.

ADDRESSES: The meeting will be held at the SAB Conference Center located at 1025 F Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), U.S. EPA Science Advisory Board Staff Office by telephone/voice mail at (202) 343–9867, or via e-mail at *stallworth.holly@epa.gov.* The SAB mailing address is: U.S. EPA, Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB, as well as any updates concerning the meeting announced in this notice, may be found in the SAB Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the SAB Hypoxia Advisory Panel will hold a public meeting to develop a report that details advances in the state-of-the science regarding hypoxia in the Northern Gulf of Mexico. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: EPA participates with other Federal agencies, states and tribes in the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force. In 2001, the Task Force released the Action Plan for Reducing, Mitigating and Controlling Hypoxia in the Northern Gulf of Mexico (or Action Plan available at *http://www.epa.gov/msbasin/taskforce/actionplan.htm*). The Action Plan was informed by the science described in An Integrated Assessment of Hypoxia in the Northern Gulf of Mexico (or Integrated Assessment available at *http://www.noaa.gov/products/hypox_finalfront.pdf*) developed by the National Science and Technology Council, Committee on Environment and Natural Resources. Six technical reports provided the scientific foundation for the Integrated Assessment and are available at *http://www.nos.noaa.gov/products/pub_hypox.html.* The aforementioned documents provide a comprehensive summary of the state-of-the-science for the Gulf of Mexico hypoxic zone through about the year 2000. EPA's Office of Water has requested that the SAB develop a report that evaluates the state-of-the-science regarding the causes and extent of hypoxia in the Gulf of Mexico, as well as the scientific basis of possible management options in the Mississippi River Basin.

In response to EPA's request, the SAB Staff Office formed the SAB Hypoxia Advisory Panel. Background on the Panel formation process was provided in a **Federal Register** notice published on February 17, 2006 (71 FR 8578–8580). The SAB Hypoxia Advisory Panel met on September 6–7, 2006 (noticed in 71 FR 45543–45544) and again on December 6–8, 2006 (noticed in 71 FR 66329–66330). Teleconferences of the full Hypoxia Advisory Panel and its three subgroups have also been published in **Federal Register** notices (71 FR 55786–55787, 71 FR 59107 and 71 FR 77743–77744). Information about the SAB Hypoxia Advisory Panel is available on the SAB Web site at: *http://www.epa.gov/sab.*

Availability of Meeting Materials: Materials in support of this meeting will be placed on the SAB Web site *http://www.epa.gov/sab/* in advance of the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the advisory process.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Stallworth, DFO, at the contact information noted above, no later than February 20, 2007, to be placed on the public speaker list for the February 28–March 2, 2007 meeting.

Written Statements: Written statements should be received in the SAB Staff Office no later than February 20, 2007 so that the information may be made available to the SAB for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail to *stallworth.holly@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Meeting Access: For information on access or services for individuals with disabilities, please contact Dr.

Stallworth at (202) 343–9867 or *stallworth.holly@epa.gov.* To request accommodation of a disability, please contact Dr. Stallworth, preferably at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: February 1, 2007.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–2116 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID Number EPA–HQ–OECA–2007–0026; FRL–8277–2]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding VersaCold Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with VersaCold Corporation (''VersaCold'' or ''Respondent'') to resolve violations of the Clean Water Act (''CWA'') and its implementing regulations.

The Administrator is hereby providing public notice of this Consent Agreement and proposed Final Order, and providing an opportunity for interested persons to comment on this Consent Agreement, in accordance with CWA section 311(b)(6)(C).

DATES: Comments are due on or before March 12, 2007.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Section I.B of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Beth Cavalier, Special Litigation and Projects Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–3271; fax: (202) 564–0010; e-mail: *cavalier.beth@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OECA–2007–0026.

The official public docket consists of the Consent Agreement, proposed Final Order, and any public comments received. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Enforcement and Compliance Docket Information Center (ECDIC) in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ECDIC is (202) 566–1752. A reasonable fee may be charged by EPA for copying docket materials.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **''Federal Register''** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.A.1.

For public commentors, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the Docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information

provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in Docket ID No. EPA–HQ–OECA–2007–0026. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *docket.oeca@epa.gov*, Attention Docket ID No. EPA–HQ–OECA–2007–0026. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD–ROM.* You may submit comments on a disk or CD–ROM that you mail to the mailing address identified in Section I.A.1. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Enforcement and Compliance Docket Information Center, Environmental Protection Agency, Mailcode: 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OECA–2007–0026.

3. *By Hand Delivery or Courier.* Deliver your comments to the address provided in Section I.A.1., Attention Docket ID No. EPA–HQ–OECA–2007–0026. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Section I.A.1.

C. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background

VersaCold Corporation (''Respondent'') is a refrigerated warehouse company, located at 2115 Commissioner Street, Vancouver, British Columbia, V5L 1AG, and is incorporated in Vancouver, British Columbia, Canada. Respondent owns and/or operates facilities in the United States. VersaCold disclosed, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations'' (''Audit Policy''), 65 FR 19618 (April 11, 2000), violations of the Clean Water Act (''CWA'') and its implementing regulations.

Specifically, VersaCold (''Respondent'') disclosed that it failed to prepare and implement a Spill Prevention, Control and Countermeasure (SPCC) plan for its two facilities located in Darien, Wisconsin and Lynden, Washington and, in addition, failed to install adequate secondary containment at its Lynden, Washington facility in violation of CWA section 311(j), 33 U.S.C. 1321, and 40 CFR Part 112. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations.

Respondent further disclosed that it had failed to comply with: (1) CWA section 301(a), 33 U.S.C. 1311(a), and the implementing regulations found at 40 CFR 122.26 when it failed to prepare and implement a stormwater pollution prevention plan at its Darien, Wisconsin facility;

(2) CWA section 301(a), 33 U.S.C. 1311(a), and the implementing regulations found at 40 CFR 122.26 when it failed to obtain a permit for discharging non-contact cooling water to a surface water, or submit a Notice of Intent to discharge, at its Darien, Wisconsin facility; and

(3) CWA section 301(a), 33 U.S.C. 1311(a), and the implementing regulations found at 40 CFR 122.26(g)(1)(ii) when it failed to submit a No Exposure Certification at its Lynden, Washington facility. EPA, as authorized by CWA section 309(b), 33 U.S.C. 1319, has assessed a civil penalty for these violations.

EPA determined that Respondent met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty for the CWA. EPA waived the gravity based penalty of $139,000 and proposed a settlement penalty amount of $6,431. This is the amount of the economic benefit gained by Respondent, attributable to its delayed compliance with the CWA, all of which is attributable to the CWA–SPCC violations.

The total civil penalty assessed for settlement purposes is six thousand four hundred and thirty-one dollars ($6,431). Respondent has agreed to pay this amount. EPA and Respondent negotiated and reached an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on January 12, 2007 (*In Re: VersaCold Corporation*, Docket No. CWA–HQ–2005–8002). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of CWA section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $157,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a CWA Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is March 12, 2007. All comments will be transferred to the

Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.4(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: February 1, 2007.

Robert A. Kaplan,

Director, Special Litigation and Projects Division, Office of Enforcement and Compliance Assurance.

[FR Doc. E7–2115 Filed 2–7–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–New; 60-day notice]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection.

Title of Information Collection: Evaluation of Approaches to Preventing Adolescent Sexual Risk Behaviors.

Form/OMB No.: 0990–NEW.

Use: The Evaluation of Approaches to Preventing Adolescent Sexual Risk Behaviors incorporates parallel evaluations of two different approaches to preventing adolescent sexual risk behavior with the overall goal of estimating the effects of abstinence education and comprehensive sex education delivered as part of middle school curricula.

The proposed study will be longitudinal; annual surveys will be administered to a cohort of sixth grade students from sixth grade through high school (or age eighteen for those who drop out of school or fail to graduate). These surveys will focus on measuring behavioral changes—non-sexual risk or precursor behaviors for younger teens and sexual behaviors for older teens, including premarital sexual activity, incidence of sexually transmitted diseases; and incidence of pregnancies and births. The surveys will also include age-appropriate questions about attitudes and intentions. Interviews will also be conducted with school health directors concerning health initiatives and issues in the sampled schools. This request is for the baseline and first follow-up instruments.

Frequency: Annual.

Affected Public: Individual.

Annual Number of Respondents: 3,027.

Total Annual Responses: 8,257.

Average Burden per Response: 46.93 minutes.

Total Annual Hours: 6,459.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received with 60-days, and directed to the OS Paperwork Clearance Officer at the following address:

Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Research and Technology, Office of Resource Management, Attention: Sherrette Funn-Coleman (0990–NEW), Room 537–H, 200 Independence Avenue, SW., Washington, DC 20201.

Dated: January 31, 2007.

Alice Bettencourt,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–2120 Filed 2–7–07; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–05BU]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Assessment and Monitoring of Breastfeeding-Related Maternity Care Practices in Intra-partum Care Facilities in the United States and Territories—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

There is substantial evidence on the social, economic and health benefits of breastfeeding for both the mother and infant and the importance of the health care system in promoting the initiation and maintenance of breastfeeding. Yet breastfeeding initiation rates and duration in the United States did not achieve Healthy People 2000 goals, and significant disparities continue to exist between African American and white women in breastfeeding rates. The Healthy People 2010 goals are to increase the proportion of mothers who breastfeed in the early postpartum period from 64% (1998 estimate) to 75%, the proportion who breastfeed their babies through 6 months of age from 29% to 50%, and to increase from 16% to 25% the proportion of mothers who breastfeed to 1 year of age and to decrease the disparities in breastfeeding initiation, exclusivity, and duration between African American and white women. In addition to ethnic and racial disparities, there is evidence of significant variation in state breastfeeding rates. For example, the breastfeeding initiation rate in Louisiana was 46.4% in 2003 and in Oregon was 88.8%.

One important and effective means to promote and support the initiation and maintenance of breastfeeding is through the health care system. While the few studies on breastfeeding practices at intra-partum care facilities in individual states and facilities show significant variation in practices, it is not currently possible to assess and monitor breastfeeding-related practices and policies in hospitals and free-standing childbirth centers across the United States with data currently available.

CDC plans to conduct an assessment of breastfeeding-related maternity care practices in intra-partum care facilities in the United States and Territories to provide information to individual facilities, state health departments, and CDC on the extent to which facilities are providing effective breastfeeding-related maternity care. The assessment will provide detailed information on general facility characteristics related to maternity care such as facility policies related to breastfeeding-related maternity care practices, practices related to the training of health care staff on breastfeeding instruction, management and support, rooming-in, infant supplementation, and discharge from facility. CDC will provide facility-specific information based on the assessment to the individual facilities and state-specific information to state health departments. The information from the survey can be used by facilities to evaluate and modify breastfeeding-related maternity care practices, and by states and CDC to inform and target programs and policies to improve breastfeeding-related maternity care practices at intra-partum care facilities.

Approximately 4,375 facilities providing maternity care in the United States and Territories will be mailed a survey every other year in this study. The survey will be administered for the first time in 2007 and for the second time in 2009. Survey content will be similar in each of the administrations to examine changes in practices and policies over time. It is expected that approximately 3,700 facilities will complete the thirty-minute questionnaire in each administration. The facilities will be identified from the American Hospital Association's Annual Survey of Hospitals (AHA) and the National Association of Childbearing Centers (NACC). A five-minute screening telephone call will be made prior to survey administrations to all facilities identified as providing maternity care in AHA and NACC to ensure they are currently providing maternity care, to identify possible satellite clinics providing maternity care, and to identify survey respondent in each of the facilities. The respondents will have the option of either responding by mail or through a Web-based system. The survey will provide detailed information about breastfeeding-related maternity care practices and policies at hospitals and free-standing birth centers. There are no costs to respondents other than their time. The approximate annualized burden hours are 1,484 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Questionnaire/respondents	Number of respondents	Number of responses/ respondent	Average burden per response (in hours)
Screening call to facilities that have at least one registered maternity bed (2006)	1458	1	5/60
Mail survey/ facilities providing maternity care in the past calendar year (2006)	1240	1	30/60
Screening call to facilities that have at least one registered maternity bed (2008)	1458	1	5/60
Mail survey/ facilities providing maternity care in the past calendar year (2008)	1240	1	30/60

Dated: January 31, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–2070 Filed 2–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–07–06BI]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–4766 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Determining Stakeholder Awareness and the Use and Impact of Products Developed by the Evaluation of Genomic Applications in Practice and Prevention (EGAPP) Model Project—New—National Center for Chronic Disease Prevention and Health Promotion/National Office of Public Health Genomics (NOPHG), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

More than 1,000 genetic tests are currently available in clinical practice. Most are used for diagnosis of rare genetic diseases, but a growing number have population-based applications, and the potential for broad public health impact.

A number of issues have been raised about the current status of genetic testing implementation, including the need to develop evidence to establish validity and utility of genetic tests before tests are commercialized. Advisory panels, professional organizations, and clinical experts have produced recommendations on the development and clinical implementation of safe and effective genetic tests. In response to the need for a coordinated approach for effectively integrating genomic tests into clinical practice and health policy, CDC's National Office of Public Health Genomics (NOPHG) initiated the (Evaluation of Genomic Applications in Practice and Prevention) EGAPP model project in 2004 to establish a systematic, evidence-based process for assessing genetic tests in transition from research to practice. To support this goal, an independent, non-federal, multidisciplinary EGAPP Working Group was established to identify, prioritize, and select genetic tests to be reviewed; establish review methods and processes; monitor progress of the reviews; and develop conclusions and recommendations based on the evidence.

The plan for surveying key stakeholders described here represents a large component of the overall project evaluation plan. The study will be conducted in collaboration with a consultant, Judith L. Johnson, PhD, under a CDC task order with the McKing Consulting Corporation. Dr. Johnson and McKing Consulting Corporation worked with CDC on study design, and will collect data for the study, conduct data analyses, and develop written reports of results.

The purpose of this study is to collect information on the value and impact of the EGAPP products developed and disseminated (*e.g.*, evidence reports, recommendations) by surveying members of key stakeholder groups considered by project advisors to have the most immediate need and interest in EGAPP products. The four key stakeholder groups are *healthcare providers, healthcare payers and purchasers, policy makers* (*e.g.*, medical professional organizations, healthcare policy organizations), as well as *targeted consumer groups* and *Web site visitors.* Healthcare providers/payers have expressed interest in evidence-based information on emerging genetic tests, and will receive the first surveys about six months after the release of the first evidence reports and EGAPP Working Group recommendations; these groups will be surveyed again one year later. Policy makers, consumers, and healthcare purchasers are likely to identify and be impacted by information developed by EGAPP over a somewhat longer timeline. Therefore, these groups will be surveyed twelve months after the first products are released, and surveyed again one year later. During two specified periods of time one year apart, individuals accessing the EGAPP website will be given the option to participate in an EGAPP survey.

There are no costs to the respondents other than their time. The total estimated annualized burden hours are 448.52.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Survey name	Number of respondents	Number of responses per respondent	Average response per respondent
Healthcare Providers:	Healthcare Provider Survey.			
Primary Care Providers		385	1	10/60
Specialists		385	1	10/60
Genetic Counselors		200	1	10/60
Mid-level Practitioners		385	1	10/60
Nurses		385	1	10/60
Healthcare Payers and Purchasers:				
Healthcare Payers	Policy/Payer Survey	100	1	10/60
Healthcare Purchasers	Purchaser Survey	[19]31	1	10/60
Healthcare Policy Makers	Policy Survey	50	1	10/60
Consumers:				
Group members	General Survey	385	1	10/60
Website visitors		385	1	10/60

Dated: January 31, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–2071 Filed 2–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–07–0479]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Automated Management Information System (MIS) for Diabetes Control Programs (OMB No. 0920–0479)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Diabetes Translation (DDT) within the National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), has implemented a Management Information System (MIS) and federally sponsored data collection requirement for all CDC funded Diabetes Prevention and Control Programs. Diabetes is the sixth leading cause of death in the United States, contributing to more than 224,000 deaths each year. An estimated 14.6 million people in the United States have been diagnosed with diabetes and an estimated 6.2 million people have undiagnosed diabetes. The Division of Diabetes Translation provides funding to health departments of States and territories to develop, implement, and evaluate systems-based Diabetes Prevention and Control Programs (DPCPs). DPCPs are population-based, public health programs that design, implement and evaluate public health prevention and control strategies that improve access to and quality of care for all, and reach communities most impacted by the burden of diabetes (e.g., racial/ethnic minority populations, the elderly, rural dwellers and the economically disadvantaged). Support for these programs is a cornerstone of the DDT's strategy for reducing the burden of diabetes throughout the nation. The Diabetes Control Program is authorized under sections 301 and 317(k) of the Public Health Service Act [42 U.S.C. 241 and 247b(k)].

In accordance with the original OMB approval (0920–0479) and the first extension (August 14, 2003) for this project, this requested revision will continue to expand and enhance the use of the technical reporting capacity of the MIS for 3 years. The MIS is a Web-

based, password access protected repository/technical reporting system that replaces an archaic paper reporting system. The MIS allows the accurate, uniform, and complete collection of diabetes program progress information using the Internet.

The number of hours that DPCPs users spend to maintain and use the MIS has increased compared to the initial baseline period. This increase in data collection burden does not directly translate into a greater reporting burden; however, it facilitates better monitoring and tracking of program activities in real-time and helps create an organizational memory. Consequently, diabetes control programs are using the MIS to a great extent as an integral part of their program compared to previous years. DPCPs add updates about their work plans and other activities into the System on an ongoing basis. The hour-burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Based on input provided by a representative sample for DPCPs, the total annualized response burden is expected to increase from 4 to 96 hours, changing the total burden hours from 236 to 5,664. Even though there has been an increase in the burden hours the number of responses remains at one (1), because the DPCPs are only required to report annually to CDC.

The MIS has improved upon the old data collection system by:

- Improving accountability.
- Shortening the information cycle.
- Eliminating non-standard reporting.
- Minimizing unnecessary duplication of data collection and entry.
- Reducing the reporting burden on small state organizations.
- Using plain, coherent, and unambiguous terminology that is understandable to respondents.
- Implementing a consistent system for progress reporting and record keeping processes.
- Identifying the retention periods for record keeping requirements.
- Utilizing modern information technology for data collection and transfer.
- Significantly reducing the amount of paper reports that diabetes prevention and control programs are required to submit.

The MIS also allows CDC to more rapidly respond to outside inquiries concerning a specific diabetes control activity occurring in the state diabetes prevention and control programs. The data collection requirement has formalized the format and the content of diabetes data reported from the DPCPs and provides an electronic means for efficient collection and transmission to the CDC headquarters.

The MIS has facilitated the staff's ability at CDC to fulfill its obligations under the cooperative agreements; to monitor, evaluate, and compare individual programs; and to assess and report aggregate information regarding the overall effectiveness of the DCP program. It has also supported DDT's broader mission of reducing the burden of diabetes by enabling DDT staff to more effectively identify the strengths and weaknesses of individual DPCPs and to disseminate information related to successful public health interventions implemented by these organizations to prevent and control diabetes.

Implementation of the MIS has provided for efficient collection of state-level diabetes program data.

There are no costs to the respondents other than their time. The total estimated annualized burden hours are 5,664.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	No. of respondents	No. of responses per respondent	Average burden per response (in hours)
State Diabetes Control and Prevention Program Officers.	Long-Term Objectives Updates	59	1	15
	Process Objectives Updates	59	1	13
	Resource Updates	59	1	10
	Advisory Group Updates	59	1	10
	Surveillance Sources Updates	59	1	10
	Budget Updates	59	1	20
	Staff Position Updates	59	1	10
	Additional Accomplishments Updates	59	1	8

Dated: February 2, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–2072 Filed 2–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Healthcare Infection Control Practices Advisory Committee, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through January 19, 2009.

For information, contact Michael Bell, M.D., Executive Secretary, Healthcare Infection Control Practices Advisory Committee, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road, NE., Mailstop A–07, Atlanta, Georgia 30333, telephone 404/639–6490 or fax 404/639–4044.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–2080 Filed 2–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Health Statistics: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Board of Scientific Counselors, National Center for Health Statistics, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through January 19, 2009.

For information, contact Virginia Cain, Ph.D., Executive Secretary, Board of Scientific Counselors, National Center for Health Statistics, Centers for Disease Control and Prevention, Department of Health and Human Services, Metro IV Building, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone 301–458–4395 or fax 301–458–4020.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 2, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–2076 Filed 2–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Task Force on Community Preventive Services

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Task Force on Community Preventive Services.

Times and Dates: 8 a.m.–5:15 p.m. EST, February 14, 2007. 8 a.m.–12:30 p.m. EST, February 15, 2007.

Place: Centers for Disease Control and Prevention, 2500 Century Parkway, Atlanta, GA 30329.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish the *Guide to Community Preventive Services (Community Guide),* which is based on the best available scientific evidence and current expertise regarding essential public health and what works in the delivery of those services.

Matters to be discussed: Agenda items include: controlling obesity; worksite health promotion and the assessment of health risks with feedback; alcohol outlet density; asthma; updating existing *Community Guide* reviews; and dissemination activities and projects in which the *Community Guide* is used.

Agenda items are subject to change as priorities dictate.

Persons interested in reserving a space for this meeting should call Tony Pearson-Clarke at 404–498–0972 by close of business on February 9, 2007.

Contact person or additional information: Tony Pearson-Clarke, Community Guide Branch, Coordinating Center for Health Information and Service, National Center for Health Marking, Division of Health Communication and Marketing, 1600 Clifton Road, M/S E–69, Atlanta, GA 30333, phone: 404–498–0972.

Dated: January 31, 2007.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–2078 Filed 2–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Prospective Grant of Co-Exclusive License

AGENCY: Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i) that the Centers for Disease Control and Prevention (CDC), Technology Transfer Office, Department of Health and Human Services (DHHS), is contemplating the grant of a limited field of use, exclusive license in China, and a co-exclusive worldwide (excluding China) license to practice the invention embodied in the patent application referred to below to Ringpu (Baoding) Biologics and Pharmaceuticals Co. LTD., having a place of business in Baoding City, Hebel Province, PR China. CDC intends to grant rights to practice this invention (in territories other than China) to no more than two other co-licensees. The patent rights in these inventions have been assigned to the government of the United States of America. The patent application to be licensed is:

Provisional Patent Application

Title: Method of Sequencing Whole Viral Genomes, Related Compositions, and Genome Sequences.

Serial No. 60/727,038.

Filing date: 10/14/2005.

PCT Patent Application

Title: Rabies Virus Compositions and Methods.

Serial No.: N/A.

Filing Date: 10/13/2006.

Domestic Status: N/A.

Issue Date: patent pending.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

The critical feature of this technology is the ERA rabies virus whole genome DNA sequence. With the availability of the entire rabies genome, a recombinant vaccine can be developed using reverse genetics. The vaccines that can be developed using this genome are fundamentally different from classic ones that are being produced. The technology is being applied to other negative stranded RNA viruses.

ADDRESSES: Requests for a copy of these patent applications, inquiries, comments, and other materials relating to the contemplated license should be directed to Andrew Watkins, Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop K–79, Atlanta, GA 30341, *telephone:* (770) 488–8610; *facsimile:* (770) 488–8615. Applications for an exclusive license to the territory of China filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Only written comments and/or applications for a license which are received by CDC within thirty days of this notice will be

considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552. A signed Confidential Disclosure Agreement will be required to receive a copy of any pending patent application.

Dated: January 31, 2007.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–2077 Filed 2–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 1, 2007, from 8 a.m. to 5:30 p.m., and March 2, 2007, from 8 a.m. to 6 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: James Swink, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–4179, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512625. Please call the Information Line for up-to-date information on this meeting.

Agenda: On March 1, 2007, the committee will discuss and make recommendations regarding the premarket approval application, sponsored by Medtronic Inc., for the Chronicle Implantable Hemodynamic Monitoring System. This implantable device is intended to reduce hospitalization events or equivalent events for worsening heart failure in patients with moderate to advanced heart failure. On March 2, 2007, the committee will discuss and make recommendations regarding clinical trial designs for Patent Foreman Ovale closure devices intended to prevent recurrent stroke.

FDA intends to make background material available to the public no later than 1 business day before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2007 and scroll down to the appropriate advisory committee link.

Procedure: On March 1, 2007, from 8 a.m. to 5:30 p.m., and March 2, 2007, from 8 a.m. to 10 a.m. and 12 p.m. to 6 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 23, 2007. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations on each day and for approximately 30 minutes near the end of the committee deliberations on each day. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 15, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 16, 2007.

Closed Presentation of Data: On March 2, 2007, from 10 a.m. to 12 p.m., the meeting will be closed to permit the discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)) presented by sponsors.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 301–827–7291, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 1, 2007.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E7–2122 Filed 2–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005D–0091]

Guidance for Industry on User Fee Waivers for Fixed Dose Combination and Co-Packaged Human Immunodeficiency Virus Drugs for the President's Emergency Plan for Acquired Immunodeficiency Syndrome Relief; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''User Fee Waivers for FDC and Co-Packaged HIV Drugs for PEPFAR.'' This guidance describes the circumstances under which user fees will not be assessed for certain applications for fixed dose combination (FDC) and co-packaged versions of previously approved antiretroviral therapies for the treatment of human immunodeficiency virus (HIV) under the President's Emergency Plan for Acquired Immunodeficiency Syndrome Relief (PEPFAR). The guidance also describes some circumstances under which most of the applications that will be assessed fees may be eligible for a public health or a barrier-to-innovation waiver.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–

240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to this guidance document.

FOR FURTHER INFORMATION CONTACT: Michael Jones, Center for Drug Evaluation and Research (HFD–5), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''User Fee Waivers for FDC and Co-Packaged HIV Drugs for PEPFAR.'' The guidance describes the circumstances under which user fees will not be assessed for certain applications for FDC and co-packaged versions of previously approved antiretroviral therapies for the treatment of HIV under PEPFAR. The guidance also describes some circumstances under which some of the applications that will be assessed fees may be eligible for a public health or a barrier-to-innovation waiver.

In May 2004, as part of PEPFAR, FDA issued a draft guidance entitled ''Fixed Dose Combination and Co-Packaged Drug Products for the Treatment of HIV'' (Fixed Dose Guidance) (69 FR 28931, May 19, 2004). The draft Fixed Dose Guidance described some scenarios for approval of FDC or co-packaged products for the treatment of HIV and provided examples of drug combinations considered acceptable for FDC/co-packaging and examples of those not considered acceptable for FDC/co-packaging. The guidance also explained that the Federal Food, Drug, and Cosmetic Act provides for certain circumstances in which FDA can grant sponsors a waiver or reduction in fees. The guidance also stated that the agency was evaluating the circumstances under which it may grant user fee waivers or reductions for sponsors developing FDC and co-packaged versions of previously approved antiretroviral therapies for the treatment of HIV. Since issuance of the draft Fixed Dose Guidance, several potential applicants have asked that we clarify whether sponsors submitting drug applications covered by the draft Fixed Dose Guidance and proposed for use in the PEPFAR program will be required to pay user fees under the Prescription Drug User Fee Act (PDUFA) and, if so, whether they would be eligible for a waiver of those fees.

In the **Federal Register** of April 18, 2005 (70 FR 20145), FDA announced the availability of a draft version of this guidance. FDA did not receive any comments in response to that draft guidance, and the agency has made only minor editorial changes to the guidance.

This guidance describes some of the scenarios under which a sponsor could qualify for fee exemptions or would only be assessed a half fee, either because the sponsor is using an active ingredient that has already been approved or the application does not require clinical data for approval. A sponsor of an application that would be assessed either a full or a half fee may also qualify for a waiver of the application fee under several provisions of PDUFA.

We expect that most of the applications, products, and establishments for FDC and co-packaged HIV therapies proposed for use in the PEPFAR program will either not be assessed fees in the first instance or will qualify for a waiver under the ''other circumstances'' part of the barrier-to-innovation user fee waiver.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on waivers for FDC and co-packaged HIV PEPFAR products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the guidance document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: February 1, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–2124 Filed 2–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Committee on Rural Health and Human Services; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the following committee will convene its fifty-fifth meeting.

Name: National Advisory Committee on Rural Health and Human Services.

Dates and Times: February 28, 2007, 9 a.m.–4:15 p.m., March 1, 2007, 9 a.m.–4:15 p.m., March 2, 2007, 9 a.m.–10:30 a.m.

Place: The Sofitel Lafayette Square, 806 15th Street NW., Washington, DC 20005, *Phone:* 202–730–8800.

Status: The meeting will be open to the public.

Purpose: The National Advisory Committee on Rural Health and Human Services provides advice and recommendations to the Secretary with respect to the delivery, research, development and administration of health and human services in rural areas.

Agenda: Wednesday morning, February 28, at 9 a.m., the meeting will be called to order by the Chairperson of the Committee, the Honorable David Beasley. Elizabeth M. Duke, Administrator of the Health Resources and Services Administration, has been invited to give opening remarks. The first presentation is titled Rural America: Then, Now and in the Future. The speakers will be John Cromartie and Carol Jones, Economic Research Service, U.S. Department of Agriculture. Following this session will be three panels on rural health and human services issues. The first will be a rural health panel with Becky Slifkin of the North Carolina Rural Health Research and Policy Analysis Center at the University of North Carolina at Chapel Hill; Gary Hart of the WWAMI Rural Health Research Center at the University of Washington; and Andy Coburn of the Maine Rural Health Research Center at the University of Southern Maine. The second will be a rural health panel with the following speakers: Julie Schoenman of the National Opinion Research Center at the University of Chicago; Michelle Casey of the

Upper Midwest Rural Health Research Center at the University of Minnesota; and Keith Mueller of the Rural Policy Research Institute. The final panel of the day will be a rural human services panel with Robert Gibbs of the Economic Research Service at the U.S. Department of Agriculture; Dennis Dudley with the U. S. Administration on Aging; and Brian Dabson of the Poverty Center at the Rural Policy Research Institute. The Wednesday meeting will close at 4:15 p.m.

Thursday morning, March 1, at 9 a.m., the Committee will open with a discussion on Wednesday's sessions. Immediately following, the Committee Chair will lead a discussion of the topics for the 2008 Report to the Secretary and assign Subcommittees. The first presentation of the day will be on Rural Policy Moving Forward by Mike O' Grady, Senior Fellow with the National Opinion Research Center. This will be followed by a presentation on the Commonwealth Fund Activity by Mary Wakefield, Director of the Center for Rural Health at the University of North Dakota. After lunch the Committee will have discussion on the day's presentations. The formal Committee meeting for Thursday will close at 2:30 p.m. The Subcommittees will meet from 2:30 p.m. to 4 p.m.

The final session will be convened Friday morning, March 2, at 9 a.m. The Committee will receive reports from the Subcommittee discussions on Thursday, draft the letter to the Secretary, and discuss the June meeting. The meeting will be adjourned at 10:30 a.m.

For Further Information Contact: Anyone requiring information regarding the Committee should contact Tom Morris, M.P.A., Executive Secretary, National Advisory Committee on Rural Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 9A–55, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Michele Pray-Gibson, Office of Rural Health Policy (ORHP), Telephone (301) 443–0835. The Committee meeting agenda will be posted on ORHP's Web site *http://www.ruralhealth.hrsa.gov.*

Dated: February 2, 2007.

Caroline Lewis,

Acting Associate Administrator for Administration and Financial Management.

[FR Doc. E7–2125 Filed 2–7–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: Correction

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions; correction.

SUMMARY: The HHS Office of Inspector General Published a document in the **Federal Register** of October 18, 2006, imposed exclusions. The document contained the incorrect monthly exclusions.

FOR FURTHER INFORMATION CONTACT: Jacqueline Freeman, (410) 786–5197.

Correction

In the **Federal Register** of October 18, 2006, in FR Doc. 71 FR 61485, on page 61492, The list was for the September 2006 exclusions. The correct exclusions for September 2006 should read:

Subject name, address	Effective date
PROGRAM-RELATED CONVICTION	
ABAD, NILDA ALPINE, CA	10/19/2006
ALLISON, KEITH LOS ANGELES, CA	10/19/2006
ANDERSON, THEODORE KINGSTON, WA	10/19/2006
BOUCHARD, JOHN PHILLIPSBURG, KS	10/19/2006
BOUGHTON, LLOYD LOS ANGELES, CA	10/19/2006
BRAZIL, MICHAEL ARLINGTON, VA	10/19/2006
CACAL, ROQUE LOS ANGELES, CA	10/19/2006
CACAL, ROSA LOS ANGELES, CA	10/19/2006
CARDILLO, JOHN BERKELEY HEIGHTS, NJ	10/19/2006
DELATOUR, GREGORY MIAMI, FL	10/19/2006
DELGADO, JOSUE BALDWIN PARK, CA	10/19/2006
DODDS, KYLE INDEPENDENCE, OR	10/19/2006
EASON, KIM FRESNO, CA	10/19/2006
EDWARDS, PHYLLIS HAMILTON, OH	10/19/2006
EVANS, AMY PATASKALA, OH	10/19/2006
FINLEY, SANDRA OKLAHOMA CITY, OK	10/19/2006
FLORES, VERGIL MESQUITE, TX	10/19/2006
FRANK, PAUL FORT DIX, NJ	10/19/2006
GALLEGOS, JODY THORNTON, CO	10/19/2006
GORDON, RICHARD SURPRISE, AZ	10/19/2006
GOTTSCHALL, ZAY BUTTE, MT	10/19/2006
HABEEB, GREGORY CLARK SUMMIT, PA	10/19/2006
HARRIS, KATRINA NILES, OH	10/19/2006
HARRIS, TAMMY AUSTIN, TX	10/19/2006
HARTSFIELD, ARCHIE EL PASO, TX	10/19/2006
HERIC, THOMAS HAWTHORNE, CA	10/19/2006
HERNANDEZ, JOSE MIAMI, FL	10/19/2006
HOLSAN, JASON GRAND JUNCTION, CO	10/19/2006
HOVATTER, KATHY PARMA, OH	10/19/2006
ISHAK, MAHER HARRIMAN, NY	10/19/2006
JOHNSON, SHELIA SARDINIA, OH	10/19/2006
JONES, WANDA YOUNGSTOWN, OH	10/19/2006
LAZARO, JUAN WESTBROOK, ME	10/19/2006
LUETTGEN, TAMMIE ALLENTOWN, PA	10/19/2006
MALAHIMOV, BORIS BRADFORD, PA	10/19/2006
MALCOLM-FORBES, SONIA COLUMBUS, OH	10/19/2006
MAYHUGH, JEFFREY THORNVILLE, OH	10/19/2006
MORTON, GEORGE PHENIX, VA	10/19/2006
PARKER, ROGER HAMPTON, VA	10/19/2006
PETERSON, RENE DES MOINES, IA	10/19/2006
REISBORD, DAVID LOS ANGELES, CA	10/19/2006
RUMMELT, HERMAN DULUTH, MN	10/19/2006
SERRANO, SUSAN DUBLIN, CA	10/19/2006
SHUMAKER, MARY SARDINIA, OH	10/19/2006
SISNEY, DEBRA BULL SHOALS, AR	10/19/2006
SOLIS, MARY WEST COVINA, CA	10/19/2006
SPEARS, RAMESHIA GRANDVIEW, MO	10/19/2006
SPEIGHT, DIANNA LAS VEGAS, NV	10/19/2006
STATLER, JOHN DAYTON, OH	10/19/2006
STIMPSON, RIETA HELENA, MT	10/19/2006
WALLED, RAFAEL MIAMI, FL	7/5/2006
WALLERICK, MELANIE YOUNGSTOWN, OH	10/19/2006
WILLIAMS, DRANETTA GATESVILLE, TX	10/19/2006
WILLIAMS, HENRY HUNTSVILLE, TX	10/19/2006
WOODBURY PHARMACY, INC HARRIMAN, NY	10/19/2006
FELONY CONVICTION FOR HEALTH CARE FRAUD	
BAILEY, LLEWELLYN ROSEDALE, NY	10/19/2006
BALL, HEIDI SPRINGFIELD, OR	10/19/2006
BATTERTON, CAROL CHEYENNE, OK	10/19/2006
BENTLEY, WILLIAM MONROE, WA	10/19/2006
BLEVINS, CHARLES MONTGOMERY, AL	10/19/2006
BOUGHTON, DARLA	10/19/2006

Subject name, address	Effective date
COEUR D'ALENE, ID	
CARTER, ANGEL ..... BASTEVILLE, AR	10/19/2006
COULSON, ANDREA ..... ORANGE, CA	10/19/2006
CRICHTON, SONJA ..... LITCHFIELD PARK, AZ	10/19/2006
DECKER, CAROLINE ..... BOULDER, CO	10/19/2006
FARR, CHARLENE ..... SWANTON, VT	10/19/2006
FULKERSON, JANET ..... TEMPLE, TX	10/19/2006
GONZALEZ, JOSEPH ..... MIAMI BEACH, FL	10/19/2006
HARRIS, APRIL ..... PHOENIX, AZ	10/19/2006
HARRIS, JOAN ..... FONTANA, CA	10/19/2006
HENNEKES, ZACHARY ..... CINCINNATI, OH	10/19/2006
KOWALSKI, KAREN ..... DENVER, CO	10/19/2006
LANDIN, ALICIA ..... WESTMINSTER, CO	10/19/2006
LIEN, JONATHAN ..... SAN JOSE, CA	10/19/2006
MELTON, LINDA ..... CENTRAL POINT, OR	10/19/2006
MOSS, MARGO ..... NORWALK, IA	10/19/2006
NGUYEN, DENNIS ..... ELK GROVE, CA	10/19/2006
ORZO, BILLIE ..... ALLIANCE, OH	10/19/2006
POLZINE, ANTHONY ..... SAN ANTONIO, TX	10/19/2006
SCHEMPP, JOANNE ..... KENT, OH	10/19/2006
TAYLOR, MISTY ..... STRATFORD, OK	10/19/2006
WILLIS, JACQUELYN ..... FAIRFIELD, OH	10/19/2006
WOODRAL, JANNETTE ..... HEAVENER, OK	10/19/2006
ZENTZ, NANCY ..... CLARKSVILLE, IN	10/19/2006
ZOLOTAREVA, ELLA ..... BROOKLYN, NY	10/19/2006
FELONY CONTROLLED SUBSTANCE CONVICTION	
BAIKAUSKAS, LAURIE ..... PEARLAND, TX	10/19/2006
BARNWELL, TERRI ..... BRIDGEPORT, TX	10/19/2006
BEAVER, CHERYL ..... ELKHART, IN	10/19/2006
CAMPBELL, TINO ..... BRIGHTON, CO	10/19/2006
CONLEY, JAMES ..... FLATWOODS, KY	10/19/2006
COPLEY, TIFFANY ..... LUBBOCK, TX	10/19/2006
DONCASTER-LAWSON, PATRICIA ..... WILLIAMSBURG, KY	10/19/2006
FEE, CATHERINE ..... EGG HARBOR CITY, NJ	10/19/2006
GINGLE, MICHELLE ..... WESLEY CHAPEL, FL	10/19/2006
HUTTON, JOANNA ..... HOCKESSIN, DE	10/19/2006
KELLEY-WALLER, SUSAN ..... OVERTON, TX	10/19/2006
KNOX, ROBERT ..... PRINCETON, WV	10/19/2006
NAGY, HEATHER ..... PORT RICHEY, FL	10/19/2006
PORTINGA, DONNA ..... WYLIE, TX	10/19/2006
RUPARD, LORA ..... SHEPHERSVILLE, KY	10/19/2006
SANDLIN, JENNIFER ..... ANCHORAGE, AK	10/19/2006
SZURGOT, LONDA ..... JOSHUA, TX	10/19/2006
WAGMAN, PHILIP ..... CAMP HILL, PA	10/19/2006
WHITE, TRACY ..... IOWA CITY, IA	10/19/2006
YELTON, DEBRA ..... NEVADA CITY, CA	10/19/2006
PATIENT ABUSE/NEGLECT CONVICTION	
AKTHAR, WAHEED ..... HOUSTON, TX	10/19/2006
ALEXANDER, JASMINE ..... LITTLETON, CO	10/19/2006
ALLDREDGE, JOYCE ..... NEWBERG, OR	10/19/2006
BELTRAN, RICARDO ..... WHITTIER, CA	10/19/2006
BOYCE, EMILY ..... AMITYVILLE, NY	10/19/2006
CLARK, WILLIAM ..... BALLWIN, MO	10/19/2006
CLOUGH, KRISTEN ..... PORTSMOUTH, NH	10/19/2006
DUVALL, DONNA ..... LOCO, OK	10/19/2006
ELMORE, ASHLEY ..... BETHANY, OK	10/19/2006
EVANS, JOHN ..... HARDWICK, GA	10/19/2006
GREENBERG, WILLIAM ..... WEST BLOOMFIELD, MI	10/19/2006
GRIMES, BETTY ..... GLENDORA, CA	10/19/2006
HAECK, MARGARET ..... LANSING, MI	10/19/2006
HAMED, JILL ..... COPPERAS COVE, TX	10/19/2006
HARTKOPF, PAMELA ..... ROTHSCHILD, WI	10/19/2006
HENRY, JESSE ..... ALBUQUERQUE, NM	10/19/2006
KATHPAL, GURBACHAN ..... CANONSBURG, PA	10/19/2006
KNEELAND, ASHLEY ..... JAY, OK	10/19/2006
KONADU, OFORI ..... COLUMBUS, OH	10/19/2006
LARKIN, PATRICIA ..... GUTHRIE, OK	10/19/2006
LOESER, PETER ..... FRANKLIN, NH	10/19/2006
MAGANA, IGNACIO ..... JUPITER, FL	10/19/2006
MASSEY, TRACI ..... CANTON, OH	10/19/2006
MESSER, KIMBERLY ..... CORINTH, MS	10/19/2006
PARKER, COURTNEY ..... CHICKASHA, OK	10/19/2006
SANDERS, MICHAEL ..... NEWTON, NJ	10/19/2006
SHOLES, MARK ..... SAINT PETERSBURG, FL	10/19/2006
SINGLETON, EMILY ..... MIAMI, FL	10/19/2006
SNIDER, CHARLES ..... PORTLAND, OR	10/19/2006
SPEARS, VIRGINIA ..... ROSEVILLE, CA	10/19/2006
STANG, ROBERT ..... KINGSLEY, MI	10/19/2006
THOMPSON, COLLEEN ..... ROCKVILLE, MD	10/19/2006
TROTTIER, PATRICIA ..... LANCASTER, NH	10/19/2006
VILLAREAL, JULIUS ..... CHULA VISTA, CA	10/19/2006
WILLIAMSEN, JEFFREY ..... MT PLEASANT, IA	10/19/2006
WRIGHT, JOSEPH ..... AUGUSTA, WV	10/19/2006
WUELLEH, JAMES ..... COLUMBUS, OH	10/19/2006
YATES, GEORGE ..... STERLING, CO	10/19/2006
CONVICTION FOR HEALTH CARE FRAUD	
ASHLEY, PEGGY ..... MAYFLOWER, AR	10/19/2006
BASSETT, SARA ..... LEON, IA	10/19/2006
GURUNIAN, TIFFANY ..... BOSSIER CITY, LA	10/19/2006
PINKHAM, JENNIFER ..... CANAAN, ME	10/19/2006
LICENSE REVOCATION/SUSPENSION/ SURRENDER	
ABRAMS, BRUCE ..... LEXINGTON, KY	10/19/2006
ALDRICH, JOYCE ..... PARKER, CO	10/19/2006
ANDERSON, PEGGY ..... STANWOOD, WA	10/19/2006
ANDERSON-STRATTON, JAIMEE ..... OGDEN, UT	10/19/2006
BABINEAU, MARSHA ..... SURPRISE, AZ	10/19/2006
BADER, RALPH ..... TAFT, CA	10/19/2006
BALLENTINE, SALLY ..... ARLINGTON, TX	10/19/2006
BATES, WILLIAM ..... MONTICELLO, FL	10/19/2006
BEAUDOIN, PATRICIA ..... HOUSTON, TX	10/19/2006
BELIN, MARY ..... CORONA, CA	10/19/2006
BENASFRE, SANDERSON ..... WILMINGTON, CA	10/19/2006
BEVINS, ELIZABETH ..... WINCHESTER, KY	10/19/2006
BIRD, CHARLES ..... ALTAMONTE SPRINGS, FL	10/19/2006
BOTEO, AURA ..... S. SAN FRANCISCO, CA	10/19/2006
BOTKIN, JENNIFER ..... FRENCHTOWN, MT	10/19/2006
BOUCHARD, ROXANNE	10/19/2006

Subject name, address	Effective date
ENFIELD, CT	
BOUTACOFF, MARIA ..... FAIRFAX, CA	10/19/2006
BOYNTON, HOLLY ..... EVANSTON, WY	10/19/2006
BRADBURN, JAMIE ..... GOLDEN, CO	10/19/2006
BRECKEN, SIGRID ..... OLD ORCHARD BEACH, ME	10/19/2006
BRISTOL, KENNETH ..... FLAGSTAFF, AZ	10/19/2006
BROWN, KELLY ..... FT OGLETHORPE, GA	10/19/2006
BROWNE, CLINTON ..... GAINESVILLE, FL	10/19/2006
BROWNING, MICHELLE ..... WESTMINSTER, CO	10/19/2006
BRUNELLE, ELIZABETH ..... TUCSON, AZ	10/19/2006
BRUNNER, MARY ..... DENVER, CO	10/19/2006
BUCKLAND, DEANNA ..... ROCHESTER, NY	10/19/2006
BUSCHER, RICHARD ..... YAKIMA, WA	10/19/2006
BUSEY, REBECCA ..... SHREVEPORT, LA	10/19/2006
CACHUELA, DANILO ..... CHULA VISTA, CA	10/19/2006
CARNEY, JOHN ..... BLUEFIELD, VA	10/19/2006
CARPENTER, IZETTA ..... LOS GATOS, CA	10/19/2006
CHAVEZ, YVETTE ..... LOCKEFORD, CA	10/19/2006
CHIPMAN, BRENDA ..... AMERICAN FORK, UT	10/19/2006
CHRAPA, EDEANE ..... E AURORA, NY	10/19/2006
COHEN, STACIE ..... FRAMINGHAM, MA	10/19/2006
COLEMAN, LYNDEE ..... PHILO, CA	10/19/2006
COMBS, SANDRA ..... WHITE RIVER JUNCTION, VT	10/19/2006
COMPTON, KATHRYN ..... PIKEVILLE, KY	10/19/2006
CONLEY, TONY ..... HOLDENVILLE, OK	10/19/2006
COON, JENNIFER ..... BINGHAMTON, NY	10/19/2006
CROWLEY, CAITLIN ..... MANCHESTER, NH	10/19/2006
CUDNEY, KATHI ..... EUREKA, CA	10/19/2006
CYNEWSKI, KATELYN ..... EXETER, NH	10/19/2006
CYPRESS, ROVET ..... HAMPTON, VA	10/19/2006
DALLEY, MELISSA ..... WEST JORDAN, UT	10/19/2006
DANIELS, STEPHANIE ..... TEMECULA, CA	10/19/2006
DEVITO, DANIELLE ..... MECHANICVILLE, NY	10/19/2006
DIAZ, CHRISTOPHER ..... GRAND JUNCTION, CO	10/19/2006
DRAPER, SPENCER ..... CANYON LAKE, TX	10/19/2006
DUFF, JONNA ..... OXNARD, CA	10/19/2006
DUFFEY, DANNELL ..... VISALIA, CA	10/19/2006
DUFFY, KATHY ..... GREENVILLE, TX	10/19/2006
EARL, THEODORE ..... PITTSBURGH, PA	10/19/2006
EASON, WALTER ..... JACKSONVILLE, AL	10/19/2006
EDGE, NIKKI ..... YERINGTON, NV	10/19/2006
EISENBERG, LAURA ..... PORT HENRY, NY	10/19/2006
FALL, DONNA ..... PITTSBURGH, PA	10/19/2006
FARMARTINO, ROCKY ..... HERMITAGE, PA	10/19/2006
FIELDS, BRYAN ..... MISSOURI CITY, TX	10/19/2006
FINCH, GHIA ..... INDIANAPOLIS, IN	10/19/2006
FRANCOIS, IOLA ..... GADSDEN, AL	10/19/2006
FRISBY, JODI ..... PAYSON, UT	10/19/2006
GAINES, GINGER ..... TAMPA, FL	10/19/2006
GARDNER, TODD ..... KANAB, UT	10/19/2006
GERAGHTY, MARY ..... RUNNING SPRINGS, CA	10/19/2006
GILLILAND, JAMES ..... VANCOUVER, WA	10/19/2006
GISOLO, LINDA ..... MIDLAND, TX	10/19/2006
GREEN, JUDITH ..... ESSEX JUNCTION, VT	10/19/2006
GREER, JULIANA ..... MESA, AZ	10/19/2006
HAHN, REBECCA ..... PHOENIX, AZ	10/19/2006
HALL, LINDA ..... ANDERSON, IN	10/19/2006
HALSTED, DAVID ..... TRAVERSE CITY, MI	10/19/2006
HANGE, PAULEE ..... LANSDALE, PA	10/19/2006
HANNA, DARWIN ..... BOLINGBROOK, IL	10/19/2006
HANSEN, TAMMY ..... HUTTO, TX	10/19/2006
HARRIS, JENNIFER ..... TEMPE, AZ	10/19/2006
HARRIS, RICHARD ..... HENDERSONVILLE, NV	10/19/2006
HARRIS, VISHUN ..... REDLANDS, CA	10/19/2006
HERNANDEZ, SYLVIA ..... GLENDALE, AZ	10/19/2006
HODGSON, MELISSA ..... OKLAHOMA CITY, OK	10/19/2006
HOLLAND, ANGELICA ..... TUCSON, AZ	10/19/2006
HOLZHAUSEN, KAREN ..... NORTH EAST, PA	10/19/2006
HOPES, JAMES ..... ALEXANDER, AR	10/19/2006
HOSKINS, VICKIE ..... BAXTER, KY	10/19/2006
HUARD, KATHY ..... BROOKFIELD, MA	10/19/2006
HUEBENER, CHRISTIANE ..... DES MOINES, IA	10/19/2006
HUGHSON, KATHLEEN ..... RICHMOND, VA	10/19/2006
HUNT, WAYNE ..... BROOKLYN, NY	10/19/2006
HUTSON, TRACY ..... ABILENE, TX	10/19/2006
JAMISON, LISA ..... ARANSAS PASS, TX	10/19/2006
JEFFERSON, SHIRLEY ..... WAXAHACHIE, TX	10/19/2006
JOHNSON, CHANIKA ..... LONGVIEW, TX	10/19/2006
JOHNSON, ROBERT ..... DELTONA, FL	10/19/2006
JOHNSTON, KELLIE ..... BLUE BELL, PA	10/19/2006
JONES, LISA ..... MONTGOMERY, IN	10/19/2006
JUAREZ, SANDRA ..... BUTTE, MT	10/19/2006
KEEN, KIMBERLY ..... WHITNEY, TX	10/19/2006
KING, PATRICIA ..... HOUSTON, TX	10/19/2006
KLEIN, SHARON ..... JACKSONVILLE, FL	10/19/2006
KOEN, SHAUN ..... HANSFORD, CA	10/19/2006
KOLINSKY, BARBARA ..... BERLIN, NH	10/19/2006
KRAEMER, LINDA ..... BLANDON, PA	10/19/2006
KRIKSCIUN, DONNA ..... OAKDALE, CT	10/19/2006
LA FAMILIA PHARMACY III, INC ..... MIAMI, FL	10/19/2006
LA FAMILIA PHARMACY IV, INC ..... DEERFIELD BEACH, FL	10/19/2006
LADD, ROBERT ..... WESTMORELAND, TN	10/19/2006
LAFAYETTE, PATRICIA ..... BRISTOL, VT	10/19/2006
LANCASTER, DAVID ..... SAINT GEORGE, UT	10/19/2006
LANCASTER, MELISSA ..... ARCHBALD, PA	10/19/2006
LANDERS, MARIBETH ..... KELLER, TX	10/19/2006
LAPOINTE, DAVID ..... PROVIDENCE, RI	10/19/2006
LAQUERRE, CHERI ..... WEST BARNSTABLE, MA	10/19/2006
LATTERMAN, MICHAEL ..... MIAMI BEACH, FL	10/19/2006
LAUBER, JANE ..... TUCSON, AZ	10/19/2006
LEFAIVRE-KNUTSON, JULIE .. OCALA, FL	10/19/2006
LENTZ, BRIAN ..... DENVER, CO	10/19/2006
LEWIS, FRANK ..... DAVIS, CA	10/19/2006
LIMIDO, GLEN ..... MAYWOOD, NJ	10/19/2006
LINEBARGER, NANCY ..... GUILD, NH	10/19/2006
LO CASCIO, THOMAS ..... FLORAL PARK, NY	10/19/2006
LOGAN, JOEL ..... NORWELL, MA	10/19/2006
LOVATO, ANDREA ..... MONROE, NH	10/19/2006
LOWMAN, BRIAN ..... OOLTEWAH, TN	10/19/2006
LUCAS, KATINA	10/19/2006

Subject name, address	Effective date
STATEN ISLAND, NY	
LUCAS, KRISTI ROANOKE, VA	10/19/2006
LUCAS, LESLIE BARRE, VT	10/19/2006
MAGDELENA, EMILY MARICOPA, AZ	10/19/2006
MAGNON, CONSTANCE ELMENDORF, TX	10/19/2006
MANIG, MARK COLORADO SPRINGS, CO	10/19/2006
MARCH, LOIS CORDELE, GA	10/19/2006
MARRAZZO-TALLIA, CHRISTAL FAIRHAVEN, NJ	10/19/2006
MCGETTIGAN, MARY PHILADELPHIA, PA	10/19/2006
METIAM, FRANCROSENDO SPARKS, NV	10/19/2006
MILLER, CYNTHIA NASHVILLE, TN	10/19/2006
MILLER, TYLER MANTI, UT	10/19/2006
MITCHELL, JOSHUA AUGUSTA, ME	10/19/2006
MITCHELL, KENNETH SANFORD, ME	10/19/2006
MORALES, SUSAN FLORESVILLE, TX	10/19/2006
MORRIS, JANET JELLICO, TN	10/19/2006
MORRIS, THERESA ROCHESTER, NY	10/19/2006
MORRISON, HOLLY WESTERVILLE, OH	10/19/2006
NAZIR, KHALIL ALBANY, NY	10/19/2006
NELSON, J SALT LAKE CITY, UT	10/19/2006
NGUYEN, KHOA SEATTLE, WA	10/19/2006
NIELSEN, JAIMIE JOHNSON, VT	10/19/2006
NORRIS, DEBRA DALLAS, TX	10/19/2006
NORRIS, JO KRUM, TX	10/19/2006
NORWOOD, CAROLE BENTON, TN	10/19/2006
NURIAS LA FAMILIA PHARMACY DEERFIELD BEACH, FL	10/19/2006
OLIVER, BEVERLY DONALDSONVILLE, LA	10/19/2006
OLIVER, CRISTY ALVIN, TX	10/19/2006
OLMSTEAD, STEPHEN SEATTLE, WA	10/19/2006
ORNALES, JOEY YOAKUM, TX	10/19/2006
PARKER, ANDREA NEWARK, NY	10/19/2006
PARLANTE, DANIELLE WILLIAMSPORT, PA	10/19/2006
PASCO, MARITONE HOUSTON, TX	10/19/2006
PATURU, SUMATHI BIRMINGHAM, AL	10/19/2006
PETRIE, JENNIFER CLEARLAKE, CA	10/19/2006
PINA, DARLEEN TEATICKET, MA	10/19/2006
POOL-PARKER, MIKA NORMAN, OK	10/19/2006
PRIEM, LOREN DENVER, CO	10/19/2006
READ, BONNIE SPRING HILL, FL	10/19/2006
REDD, SHERRI SENATOBIA, MS	10/19/2006
REESE, CHRISTOPHER CLINTON, NY	10/19/2006
REHM, TODD LAKE GEORGE, NY	10/19/2006
ROCKE, DARCELLE DENVER, CO	10/19/2006
ROUSSEAU, JANET MIDDLETON, NH	10/19/2006
ROY, SUSAN SHREWSBURY, MA	10/19/2006
RUDOLPH, MELISSA CANAL WINCHESTER, OH	10/19/2006
SANDOVAL, MARIA WACO, TX	10/19/2006
SCHMITTLE, KARL YORK, PA	10/19/2006
SCOTT, SHARON BRIDGEWATER, MA	10/19/2006
SERTICH, PAMELA HELOTES, TX	10/19/2006
SHAPIRO, GARY SANTA MONICA, CA	10/19/2006
SHENKMAN, BERNARD ALLENTOWN, PA	10/19/2006
SILVA, MARLENE WILTON, CA	10/19/2006
SIMOLARIS, PAMELA LOWELL, MA	10/19/2006
SLAVIN, CARL ANNAPOLIS, MD	10/19/2006
SNOW, MICHAEL WEST CHESTER, PA	10/19/2006
SOMERVILLE, MICHAEL SALT LAKE CITY, UT	10/19/2006
SPILKER, BOBBI WESTON, OH	10/19/2006
STANLEY, TERESA CONROE, TX	10/19/2006
STECKEL, ELIZABETH HUDSON, OH	10/19/2006
STONE, MARY LAKEWOOD, NJ	10/19/2006
SUMMERSON, TAMMY FAIRHOPE, AL	10/19/2006
TERRIEN, MARGARET BURLINGTON, VT	10/19/2006
THOMAS, MARC ALBUQUERQUE, NM	10/19/2006
THOMPSON, VIOLET LAFAYETTE, IN	10/19/2006
TICE, FREDRICK SAN ANTONIO, TX	10/19/2006
TIPPETS, RANDY OGDEN, UT	10/19/2006
TOBAH, JAMES MESA, AZ	10/19/2006
TURNER, CLARENCE WORCESTER, MA	10/19/2006
UPCHURCH, YALINDA GARLAND, TX	10/19/2006
VALADEZ, STEPHEN SIGNAL MOUNTAIN, TN	10/19/2006
VAN DYKE, ALBERT MANTI, UT	10/19/2006
VINCENT, ERNIE CLAYTON, CA	10/19/2006
WALCZAK, CHRISTOPHER MONTPELIER, VT	10/19/2006
WALKER, PAMELA AUSTIN, TX	10/19/2006
WALTERS, BRENDA ABILENE, TX	10/19/2006
WATERS, MARK CEDAR CITY, UT	10/19/2006
WEISBACH, DAVID OCEANSIDE, CA	10/19/2006
WEISS, JUDITH APTOS, CA	10/19/2006
WELLS, MICHELLE WACO, TX	10/19/2006
WENZEL, STEPHEN FORT WORTH, TX	10/19/2006
WESLEY, MARILYN LITTLE ROCK, AR	10/19/2006
WHELAN, JOHN LINDENHURST, NY	10/19/2006
WHETSEL, SHARON ALVIN, TX	10/19/2006
WHITE, KENT CHATTANOOGA, TN	10/19/2006
WHITE, LINDA ENID, OK	10/19/2006
WILLIAMS, MATTHEW LAWTEY, FL	10/19/2006
WILLIAMS, ROBERT BALTIMORE, MD	10/19/2006
WRIGHT, CYNTHIA CHANTILLY, VA	10/19/2006
ZEIM, LISHA SALT LAKE CITY, UT	10/19/2006
ZINGARO, ROBERT EL PASO, TX	10/19/2006
FEDERAL/STATE EXCLUSION/ SUSPENSION	
ASCONA AMBULETTE SERVICE, INC BROOKLYN, NY	10/19/2006
MARTINEZ, ROSA YAKIMA, WA	10/19/2006
FRAUD/KICKBACKS/PROHIBITED ACTS/ SETTLEMENT AGREEMENT	
FERTAL, BRUCE CANAL FULTON, OH	8/7/2006
OWNED/CONTROLLED BY EXCLUDED/ CONVICTED INDIVIDUAL	
ACTIVE PAIN CLINIC, PA NEW PORT RICHEY, FL	10/19/2006
BRANDON MOBILITY, INC W YARMOUTH, MA	10/19/2006
EMA EYEWEAR, INC HOLLYWOOD, FL	10/19/2006
HERNANDO ANESTHESIA ASSOCIATES PA WEEKI WACHEE, FL	10/19/2006
HIGHLAND HILLS MANAGEMENT CORP JESUP, GA	10/19/2006
NATIONALITIES UNITED, INCORPORATED LINCOLN, NE	10/19/2006
PRO-VENTION CHIROPRACTIC PC BETTENDORF, IA	10/19/2006
ST LUCIE PAIN CENTER, INC	10/19/2006

Subject name, address	Effective date
W PALM BEACH, FL ZAKY-SHERREL MEDICAL CORPORATION ..... HUNTINGTON PARK, CA	10/19/2006
DEFAULT ON HEAL LOAN	
HERRING, CHARLES ..... FREMONT, CA	10/19/2006
LANGSTON, MARTIN ..... BATON ROUGE, LA	10/19/2006
PETRELL, ALICIA ..... PLYMOUTH, MA	10/19/2006
PHIPPS, DONNA ..... LONGVIEW, TX	10/19/2006
SATIR, SERVET ..... ORANGE, TX	10/19/2006
CIVIL MONETARY PENAL LAW	
RICHARDS, CHRISTINE ..... KNOXVILLE, IA	4/25/2006

Dated: February 2, 2007.

Susan Earp,

Acting Director, Exclusions Staff, Office of Inspector General.

[FR Doc. E7–2081 Filed 2–7–07; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, NIH.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, NIH.

Date: February 21, 2007.

Time: 2:30 p.m. to 4 p.m.

Agenda: To update members of the ACD on the NIH Reform Act of 2006 and other current issues affecting the NIH.

Place: National Institutes of Health, Building 1, Conference Room 116, 9000 Rockville Pike, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Penny W. Burgoon, PhD, Senior Assistant to the Deputy Director, Office of the Director, National Institutes of Health, 1 Center Drive, Building 1, Room 114, Bethesda, MD 20892. 301–451–5870, *burgoonp@od.nih.gov.*

This meeting is being published less than 15 days prior to the meeting due to timing limitations imposed by administrative matters.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/about/director/acd.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals for Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: February 1, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–567 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Substitute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the pubic in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Substitute Special Emphasis Panel; Pathway to Independence Award (K99).

Date: March 9, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheradon BWI Airport Hotel, 7032 Elm Road, Baltimore, MD 21240.

Contact Person: William J. Johnson, PhD., Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Substitute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–435–0725, *johnsonw@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 1, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–559 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Developmental/Exploratory Alcohol Center Grant Applications Review.

Date: April 11, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Ave., NW., Washington, DC 20009.

Contact Person: Abraham P. Bautista, PhD, Chief, Extramural Project Branch Review, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, RM 3039, Rockville, MD 20852, 301–443–9737, *bautistaa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 92.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs;

93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: February 2, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–556 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences, Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the MARC Review Subcommittee A, February 15, 2007, 8 a.m. to February 15, 2007, 5 p.m. Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Ave., Bethesda, MD, 20814 which was published in the **Federal Register** on January 30, 2007, 72 FR 4277.

The meeting will now be held on February 15, 2007 from 8 p.m. to 10 p.m. and on February 16, 2007, 8:30 a.m. to 5 p.m. The meeting is closed to the public.

Dated: February 2, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–557 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFP NIH–NIDDK–06–07, Urologic Diseases in America.

Date: February 26, 2007.

Time: 2:30 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metrobolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 1, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–558 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Trauma and Burn Program Project.

Date: February 22, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health—NIGMS, Natcher Building, 45 Center Drive, 3AN–18, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Brian R. Pike, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikbr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.275, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 1, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–561 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Child Health and Human Development Special Emphasis Panel, January 5, 2007, 2 p.m. to January 5, 2007, 4 p.m. National Institutes of Health, 6100 Executive Boulevard, 5th Floor Conference Room, Rockville, MD 20852 which was published in the **Federal Register** on December 28, 2006, 71 FR 78215.

The meeting will be held on March 9, 2007. The meeting is closed to the public.

Dated: February 1, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–562 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the pubic in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Voice, Speech and Language Review Panel.

Date: March 2, 2007.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Christine A. Livingston, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.—MSC. 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Chemosensory Review Panel.

Date: March 6, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Christine A. Livingston, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; CDRC Conflicts Review.

Date: March 8, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Stanley C. Oaks, PhD, Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, Executive Plaza South, Room 400C, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892–7180, 301–496–8683, *so14s@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Hearing and Balance Review Panel.

Date: March 9, 2007.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Christine A. Livingston, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.,—MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Tinnitus RFA Review Panel.

Date: March 15, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sheo Singh, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Dubno P50.

Date: March 29, 2007.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, EPS, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Melissa Stick, PhD, MPH, Chief, Scientific Review Branch, Division of Extramural Activities, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 1, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–564 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the PubMed Central National Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: PubMed Central National Advisory Committee.

Date: April 19, 2007.

Time: 9:30 a.m. to 4 p.m.

Agenda: Review and Analysis of Systems.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: David J. Lipman, MD., Director, Natl Ctr for Biotechnology Information, National Library of Medicine, Building 38, Room 8N805, Bethesda, MD 20894, 301–435–5985, *dlipman@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.pubmedcentral.nih.gov/about/nac.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS.)

Dated: February 2, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–565 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Center for Biotechnology Information.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual other conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Center for Biotechnology Information.

Date: April 24, 2007.

Open: 8:30 a.m. to 12 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: 12 p.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigations.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Open: 2 p.m. to 5 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: David J. Lipman, MD, Director, Natl Ctr for Biotechnology Information, National Library of Medicine, Department of Health and Human Services, Building 38A, Room 8N805, Bethesda, MD 20894. 301–435–5985. *dlipman@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 2, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–566 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Sensorimotor Integration Study Section, February 20, 2007, 8 a.m. to February 20, 2007, 5 p.m., One Washington Circle Hotel, One Washington Circle, Washington, DC 20037 which was published in the **Federal Register** on January 18, 2007, 72 FR 2292–2294.

The meeting will be held at The Fairmont Hotel, 2401 M Street, NW., Washington, DC 20037. The meeting date and time remain the same. The meeting is closed to the public.

Dated: February 1, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–560 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 5552b(c)(4) and 5552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Diet, Weight, and Stress Management.

Date: February 15, 2007.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Michael Micklin, PhD, Chief, RPHB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Hypertension and Microcirculation.

Date: February 16, 2007.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036.

Contact Person: Olga A. Tjurmina, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, REM Sleep.

Date: February 21, 2007.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael Selmanoff, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3134, MSC 7844, Bethesda, MD 20892, (301) 435–1119, *mselmanoff@nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Integrative Physiology of Obesity and Diabetes Study Section.

Date: February 26–27, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Reed A. Graves, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Tumor Cell Biology Study Section.

Date: February 26–27, 2007.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804 (for courier delivery, use MD 20817), Bethesda, MD 20892, 301–435–1715, *nga@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Non-HIV Microbial Vaccine Development.

Date: February 26, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Ave., NW., Washington, DC 20037.

Contact Person: Jin Huang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095G, MSC 7812, Bethesda, MD 20892, 301–435–1187, *jh377p@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Behavioral Neuroscience.

Date: February 26–27, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ONC–P (02)M: Carcinogenesis.

Date: February 26, 2007.

Time: 1 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Zhiqiang Zou, MD, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, 301–451–0132, *zouzhiq@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ONC–P(03)M: Cancer Immunotheraphy.

Date: February 27, 2007.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Zhiqiang Zou, MD, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, 301–451–0132, *zouzhiq@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, CBSS Member Conflict SEP.

Date: February 27, 2007.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Steven B. Scholnick, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–435–1719, *scholnis@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Reproductive Biology and Endocrinology.

Date: February 28, 2007.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Krish Krishnan, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, HOP SBIR Meeting.

Date: March 1–2, 2007.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fells Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Karin F. Helmers, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892, (301) 435–1017, *helmersk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: GMPB.

Date: March 2, 2007.

Time: 2 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia Greenwel, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroscience and Disease Study Section.

Date: March 5–6, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Rene Etcheberrigaray, MD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *etcheber@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Oncology Fellowship and AREA.

Date: March 5–6, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Lambratu Rahman, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahmanl@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Clinical Oncology Study Section.

Date: March 5–6, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John L. Meyer, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 435–1213, *meyerjl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Neuroscience and Disease.

Date: March 5–6, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Seetha Bhagavan, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3022D, MSC 7846, Bethesda, MD 20892, (301) 435–1121, *bhagavas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Novel Cancer Therapies SBIR/STTR.

Date: March 5–6, 2007.

Time: 8 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Sharon K. Gubanich, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, (301) 435–1767, *gubanics@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict Special Emphasis Panel.

Date: March 5–6, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Suzan Nadi, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Central Visual Systems.

Date: March 5, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bishop, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Research on Ethical Issues in Human Studies.

Date: March 6, 2007.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Steven H. Krosnick, MD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *krosnics@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Computational and Statistical Genetics.

Date: March 6–7, 2007.

Time: 8 p.m. to 11:59 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Richard Panniers, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–06–288 Molecular Probes for Microscopy of Cells.

Date: March 7–8, 2007.

Time: 8 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ross D. Shonat, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3022A, MSC 7849, Bethesda, MD 20892, 301–435–2786, *shonatr@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Clinical Studies and Epidemiology Study Section.

Date: March 7–8, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Gateway Hotel Los Angeles Airport, 6101 West Century Boulevard, Los Angeles, CA 90045.

Contact Person: Hilary D. Sigmon, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Molecular and Cellular Biology Study Section.

Date: March 7, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Suites Palm Springs, 285 North Palms Canyon Drive, Palm Springs, CA 92262.

Contact Person: Kenneth A. Roebuck, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Pain and Somatosensory SEP.

Date: March 7–9, 2007.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Joseph G. Rudolph, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, 301–435–2212, *josephru@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Minority and Disability Fellowship Applications.

Date: March 7–8, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barbara J. Thomas, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2220, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Risk, Prevention and Intervention for Addictions Study Section.

Date: March 7–8, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Gayle M. Boyd, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, Rockledge 2, Room 3141, MSC 7808, 6701 Rockledge Drive, Bethesda, MD 20892, 301–451–9956, *gboyd@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Neurophysiology, Devices and Neuroprothesis.

Date: March 7–9, 2007.

Time: 9 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Pat Manos, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *manospa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Environmental Monitoring and Remediation.

Date: March 7, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Geoffrey White, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–435–2417, *whitege@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Virology Member SEP.

Date: March 7, 2007.

Time: 2 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John C. Pugh, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, 301–435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Mitochondrial and Cerebral Ischemia.

Date: March 7, 2007.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Geoffrey G. Schofield, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffrey@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Hematopoiesis and Transcription.

Date: March 7, 2007.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Chhanda L. Ganguly, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7802, Bethesda, MD 20892, 301–435–1739, *gangulyc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Muscle SBIR SEP.

Date: March 7, 2007.

Time: 5 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: William F. Bolger Center, 9600 Newbridge Dirve, Potomac, MD 20854.

Contact Person: Richard J. Bartlett, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, 301–435–6809, *bartletr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 1, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–563 Filed 2–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Obligated Service for Mental Health Traineeships: Regulations (42 CFR Part 62a) and Forms (OMB No. 0930–0074)—Revision

SAMHSA's Center for Mental Health Services (CMHS) awards grants to institutions for training instruction and traineeships in mental health and related disciplines. Prior to statutory change in 2000, graduate student recipients of these clinical traineeships were required to perform service, as determined by the Secretary to be appropriate in terms of the individual's training and experience, for a length of time equal to the period of support. The clinical trainees funded prior to implementation of the statutory change are required to submit the SAMHSA Form SMA 111–2, which is an annual report on employment status and any changes in name and/or address, to SAMHSA. The annual burden estimate is provided below.

42 CFR Citation and associated forms	Number of respondents	Responses per respondent	Average burden per response (hrs.)	Annual burden (hrs.)
64a.105(b)(2) Annual Payback Activities Certification—SMA 111–2	83	1	.18	14.9

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 2, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E7–2082 Filed 2–7–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council on February 28 and March 1, 2007.

The meeting is open and will include discussion of the Center's policy issues, and current administrative, legislative, and program developments.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the CSAT Council Executive Secretary, Ms. Cynthia Graham (see contact information below), to make arrangements to comment or to request special accommodations for persons with disabilities.

Substantive program information and a roster of Council members may be obtained by accessing the SAMHSA Advisory Council Web site (*http://www.samhsa.gov*) after the meeting or by communicating with the contact individual. The meeting transcript will also be available on the SAMHSA Advisory Council Web site three weeks after the meeting.

Committee Name: Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment National Advisory Council.

Meeting Dates: February 28: 9 a.m.–4 p.m.—March 1: 9 a.m.–1 p.m.

Place: 1 Choke Cherry Road, Sugar Loaf and Seneca Conference Rooms, Rockville, Maryland 20857.

Type: Open: February 28: 9 a.m.–4 p.m.—Open: March 1: 9 a.m.–1 p.m.

Contact: Cynthia Graham, M.S., Executive Secretary, SAMHSA/CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1036, Rockville, MD 20857, Telephone: (240) 276–1692, FAX: (240) 276–1690, E-mail: *cynthia.graham@samhsa.hhs.gov.*

Dated: February 1, 2007.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. E7–2079 Filed 2–7–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Office of Grants and Training, Citizen Corps; Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: DHS, Office of Grants and Training, Citizen Corps.

ACTION: 30-day notice and request for comment.

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Department of Homeland Security's Office of Grants and Training has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed online information collection was previously published in the **Federal Register** on October 24, 2006, pages 62272–62273 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The Department of Homeland Security may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after March 12, 2007, unless it displays a currently valid OMB control number.

Title: Profiles in Hometown Security.

OMB Number: 1670–NEW.

Abstract: This online information collection will enable Citizen Corps to operate effectively and efficiently. Profiles in Hometown Security will be a new online collection of 1-page summaries to communicate Citizen Corps members' involvement in safety and security incidents. By gathering this information and posting it to the Citizens Corps Web site, all Councils and the general public will be able to draw from others' experience with personal and community prevention, preparedness, response and mitigation, based on hands-on experiences. This information will also help the National Citizen Corps Council gauge its progress in the field, as well as opportunities for growth and enhancement.

Affected Public: Citizen Corps Council members, program managers, Program Partners and Affiliates, Non-profit organizations, first responders, state/local/tribal/territorial governments.

Number of Respondents: 1,430 responses per year.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 2,860 hours.

Frequency of Response: On occasion.

Comments: Interested persons are invited to submit written comments on the proposed information collection to The Office of Information and Regulatory Affairs, Office of Management and Budget, *Attention:* Nathan Lesser, Desk Officer, Department of Homeland Security, Preparedness Directorate/ and sent via electronic mail to *oira@omb.eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before March 12, 2007.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Citizens Corps, Attention: Jeanie Moore, 810 7th Street, NW., Washington, DC 20531 or by calling (202) 786–9858 (this is not a toll free number).

Charlie Church,

Information and Technology Division, Preparedness Directorate, Department of Homeland Security.

[FR Doc. 07–581 Filed 2–7–07; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Revision of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal; OMB Control Number 1615–0018.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on November 16, 2006, at 71 FR 66791, allowing for a 60-day public comment period. USCIS did not receive any comments.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 12, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0018 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of an existing information collection.

(2) *Title of the Form/Collection:* Application for Permission to Reapply for Admission into the United States after Deportation or Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–212. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information furnished on Form I–212 will be used by USCIS to adjudicate applications filed by aliens requesting consent to reapply for admission to the United States after

deportation, removal or departure, as provided under section 212 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,200 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,400 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529; 202–272–8377.

Dated: February 2, 2007.

Stephen Tarragon,

Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–2053 Filed 2–7–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bear Butte National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of draft comprehensive conservation plan; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces that a combined Draft Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) for Bear Butte National Wildlife Refuge (Refuge) is available. This CCP describes how the Service intends to manage the Refuge for the next 15 years.

DATES: Written comments must be received at the postal or electronic address listed below on or before April 9, 2007.

ADDRESSES: A copy of the document may be obtained by writing to Linda Kelly, Planning Team Leader, U.S. Fish and Wildlife Service, Division of Refuge Planning, Box 25486, Denver, Colorado 80225–0486; or electronically to *linda_kelly@fws.gov*; or downloaded from *http://mountain-prairie.fws.gov/planning*. Please provide written comments to Ms. Kelly at the address above.

FOR FURTHER INFORMATION CONTACT: Linda Kelly at 303–236–8132; fax: 303–236–4792; or e-mail: *linda_kelly@fws.gov*.

SUPPLEMENTARY INFORMATION: This Refuge was established as a Limited-interest Refuge in the late 1930s with the acquisition of easements from private landowners, the State of South Dakota (State) and the War Department (now transferred to the Bureau of Land Management at Fort Meade), to maintain an area for ''migratory bird, wildlife conservation, and other purposes.'' The Refuge is 374.20 acres and has no fee title. The easement obtained from the State only applies to lands below the ordinary high-water mark of the lake. A cooperative agreement was entered into with the State on July 12, 1967, to administer, operate and maintain the Refuge pursuant to the rights and interest in real property acquired by the United States, and more particularly described in the easement agreements.

Under the No Action Alternative, the Service would continue to manage the Refuge within the parameters of the cooperative agreement with South Dakota Game, Fish and Parks. Existing habitat within the easement and all public programs would continue to be administered and maintained by the State. Current habitat and wildlife management practices would be carried out by State Game, Fish, and Parks personnel, and levels of public use would remain the same. The facilities and activities (hiking, picnicking, designated camping, fishing and a horse camp) would remain the same.

Alternative B (Proposed Action) would relinquish the easements to the current landowners. This alternative would take the Refuge out of the Refuge System and transfer the easements to current landowners. Under this alternative, the habitat, public use, cultural resources and operations would be managed by the landowners. The Service's easement requirements would no longer exist. The Service would divest its interest in the Refuge. This would be carried out within the 15-year life of the plan. Once the CCP is approved, the managing station would work with the Division of Realty and the Division of Planning, Land Protection Planning Branch, to prepare a combined program proposal to divest this Refuge. The proposal would be submitted to the Migratory Bird Conservation Commission for concurrence and then submitted for congressional approval.

The Proposed Action was selected because it best meets the purposes and goals of the Refuge, as well as the goals of the National Wildlife Refuge System.

Dated: June 8, 2006.

Elliott Sutta,

Acting Regional Director, Region 6, Denver, CO.

Editorial Note: This document was received at the Office of the Federal Register on February 2, 2007.

[FR Doc. E7–1988 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Lake Champlain Sea Lamprey Control Alternatives Workgroup

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a meeting of the Lake Champlain Sea Lamprey Control Alternatives Workgroup (Workgroup). The Workgroup's purpose is to provide, in an advisory capacity, recommendations and advice on research and implementation of sea lamprey control techniques alternative to lampricides that are technically feasible, cost effective, and environmentally safe. The primary objective of the meeting will be to discuss potential focus research initiatives that may enhance alternative sea lamprey control techniques. The meeting is open to the public.

DATES: The Lake Champlain Sea Lamprey Control Alternatives Workgroup will meet on Thursday, February 15, 2007, from 12 p.m. to 4 p.m.

ADDRESSES: The meeting will be held at the State University of New York Valcour Educational Conference Center, 3712 Route 9—Lakeshore, Plattsburgh, NY 12901.

FOR FURTHER INFORMATION CONTACT: Dave Tilton, Designated Federal Officer, Lake Champlain Sea Lamprey Control Alternatives Workgroup, Lake Champlain Fish and Wildlife Resources Office, U.S. Fish and Wildlife Service, 11 Lincoln Street, Essex Junction, VT 05452. Telephone, 802–872–0629; e-mail, *Dave_Tilton@fws.gov*.

SUPPLEMENTARY INFORMATION: We publish this notice under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.). The Workgroup's specific responsibilities are to provide advice regarding the implementation of sea lamprey control methods alternative to lampricides, to recommend priorities for research to be conducted by cooperating organizations

and demonstration projects to be developed and funded by State and Federal agencies, and to assist Federal and State agencies with the coordination of alternative sea lamprey control research to advance the state of the science in Lake Champlain and the Great Lakes.

Anthony D. Léger,

Acting Regional Director, Region 5, U.S. Fish and Wildlife Service; DOI Designated Authorized Official, U.S. Department of the Interior.

[FR Doc. E7–2073 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW154346]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Contex Energy Company for non-competitive oil and gas lease WYW154346 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW154346 effective September 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E7–2109 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW149993]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Montana Oil Properties for competitive oil and gas lease WYW149993 for land in Sheridan County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW149993 effective May 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E7–2111 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW149994]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Montana Oil Properties for competitive oil and gas lease WYW149994 for land in Sheridan County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW149994 effective May 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E7–2112 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW149995]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2–3 (a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Montana Oil Properties and Wolverine Operations LLC for competitive oil and gas lease WYW149995 for land in Johnson County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessees have agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessees have paid the required $500 administrative fee and $163 to reimburse the Department for the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in Sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW149995 effective May 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E7–2114 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[K–932–1430–ET; AA–50224]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On behalf of the United States Department of Agriculture (USDA), Forest Service, the Bureau of Land Management proposes to extend the duration of Public Land Order (PLO) No. 6676 for an additional 20-year period. This order withdrew approximately 600 acres of National Forest System land from settlement, sale, location, or entry under the general land laws, including the United States mining laws, to protect the Cape Fanshaw Natural Area. This notice gives an opportunity to comment on the proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by May 9, 2007.

ADDRESSES: Comments and meeting requests should be sent to the Alaska State Director, BLM Alaska State Office, 222 West 7th Avenue, No. 13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Terrie D. Evarts, BLM Alaska State Office, 907–271–5630.

SUPPLEMENTARY INFORMATION: The withdrawal created by PLO No. 6676 (53 FR 18282, May 23, 1988), will expire on May 22, 2008, unless extended. The USDA Forest Service has filed an application to extend the withdrawal for an additional 20-year period to protect the natural ecological complex of the USDA Forest Service Natural Area.

This withdrawal comprises approximately 600 acres of National Forest System land located in secs. 3, 4, 9 and 10, T. 54 S., R. 75 E., Copper River Meridian, and is described in PLO No. 6676. A complete description can be provided by the BLM Alaska State Office at the address shown above.

As extended, the withdrawal would not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit or governing the disposal of the mineral or vegetative resources other than under the mining laws.

The use of a right-of-way or interagency or cooperative agreement would not adequately protect the Federal investment in the Cape Fanshaw Natural Area.

There are no suitable alternative sites available since the Cape Fanshaw Natural Area is unique and may not be substituted for the above-described public land.

No water rights would be needed to fulfill the purpose of the requested withdrawal extension.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the BLM State Director at the address indicated above. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 90 days from the publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The withdrawal extension proposal will be processed in accordance with the regulations set forth in 43 CFR 2310.4 and subject to Section 810 of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3120 (2000).

(Authority: 43 CFR 2310.3–1)

Dated: December 11, 2006.

Carolyn J. Spoon,

Chief, Branch of Lands and Realty.

[FR Doc. E7–2060 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–020–1220–EB]

Interim Final Supplementary Rules on Public Lands Within the Simpson Springs Recreation Area Managed by the Salt Lake Field Office, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim Final Supplementary Rules with request for comments.

SUMMARY: The Bureau of Land Management (BLM), Salt Lake Field Office, is implementing interim final supplementary rules and requesting comments for the Simpson Springs Recreation Area. The BLM has determined these interim final supplementary rules are necessary to: Enhance the safety of visitors, protect public health, protect natural resources, and improve recreation experiences and opportunities.

DATES: These interim final supplementary rules are effective February 8, 2007. We invite comments until April 9, 2007.

ADDRESSES: Mail or hand deliver all comments concerning these interim final supplementary rules to the Bureau of Land Management, Salt Lake Field Office, 2370 S. 2300 W. Salt Lake City, Utah 84119, or e-mail comments to *Mail_UT-Salt_Lake@blm.gov*.

FOR FURTHER INFORMATION CONTACT: Ray Kelsey, Outdoor Recreation Planner, 2370 S. 2300 W. Salt Lake City, Utah 84119, 801–977–4300.

SUPPLEMENTARY INFORMATION:

I. Background

The BLM is establishing these interim final supplementary rules under the authority of 43 CFR 8365.1–6, which allows BLM State Directors to establish such rules for the protection of persons, property, and public lands and resources. This regulatory provision allows the BLM to issue rules of less than national effect without codifying the rules in the Code of Federal Regulations. Upon completion, the rules will be available for inspection in the Salt Lake Field Office; they will be posted at the Simpson Springs Recreation Area; and they will be published in a newspaper of general circulation in the affected vicinity. The overall program authority for the operation of this recreation site is found in sections 302 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1740).

These interim final supplementary rules are necessary because of public safety concerns and resource impacts from ongoing recreational use in the Simpson Springs Recreation Area. Specifically, monitoring by BLM personnel and incident reports have determined that unregulated dispersed camping and increased off-highway vehicle use continues to disturb water sources and other habitat elements vital to survival of desert species.

The public has been involved in planning for the management of the area through the Simpson Springs Recreation Area Management Plan (RAMP) process and review under National Environmental Policy Act (NEPA). The Simpson Springs RAMP includes supplementary rules that are to be published concerning rules of conduct for public use. The comment period for these interim final supplementary rules will allow the public an additional opportunity for input on proposed management changes at the Simpson Springs Recreation Area.

The Salt Lake Field Office has taken the following steps to involve the public in planning for the area and developing the policies contained in the interim final supplementary rules:

- As part of the NEPA process, public notification of the initiation of the Simpson Springs RAMP and the environmental review process was published on Feb. 26, 2005.
- A news release and solicitation of comments were published in local papers and posted at the Simpson Springs campground bulletin board in March 2006. Comments were accepted through mail, hand delivery, or by e-mail.
- The Draft Simpson Springs RAMP was available for review at the Field Office until August 2005. Copies were e-mailed to members of the public who had expressed an interest in the area.
- No comments on the Simpson Springs RAMP were received.

Under these circumstances, the BLM finds good cause to issue these interim final supplementary rules for the Simpson Springs Recreation Area. The public is now invited to provide additional comments on the interim final supplementary rules. See the **DATES** and **ADDRESSES** sections for information on submitting comments.

II. Interim Final Supplementary Rules for the Simpson Springs Recreation Area

Section 1 Definitions

Simpson Springs Recreation Area (SSRA). The SSRA is a distinct administrative unit within the Pony Express Special Recreation Management Area and encompasses public lands located in:

Township 9 South Range 8 West
Section 7: Lot 4, SE ¼ SW ¼, S ½ SE ¼
Section 17: W ½ NW ¼, NW ¼ SW ¼
Section 18: Lots 1 and 2, NE ¼, E ½ NW ¼, NE ¼ SW ¼, N ½ SE ¼

Off-highway vehicle. Any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding: (1) Any nonamphibious registered motorboat; (2) Any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes; (3) Any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) Vehicles in official use; and (5) Any combat or combat support vehicle when used in times of national defense emergencies.

Primary vehicle: A street-legal vehicle used for transportation to the recreation site.

Dangerous weapon(s): Any item that in the manner of its use, or intended use, is capable of causing death or serious bodily injury.

Section 2 Prohibited Acts

a. No person shall camp within the SSRA outside of designated sites. Persons or groups wishing to camp outside of the designated campground are required to first obtain a special recreation permit (SRP) from the Salt Lake Field Office.

b. No person shall enter, camp, park, picnic, or stay longer than one half hour within the Simpson Springs Campground without properly paying posted permit fees. Permits must be purchased and visibly displayed in the windshield of all primary vehicles with the date side facing out.

c. No person shall use or possess to use as firewood any materials containing nails, screws, or other metal hardware, including but not limited to wood pallets and/or construction debris. Only charcoal may be burned in campsite barbeque grills.

d. No person shall use an accelerant for the purposes of igniting a campfire except with any commercially purchased charcoal igniters or other non-hazardous fuels.

e. No person shall camp or use motorized vehicles within 200 feet of any perennial water source or impoundment.

f. No person shall operate a motorized vehicle in excess of the posted speed limit on any maintained roadway within the SSRA.

g. No person shall operate a motorized vehicle off of designated routes within the SSRA.

h. No person shall operate or use any audio device, including, but not limited

to, a radio, television, musical instrument, other noise producing device, or motorized equipment between the hours of 10 p.m. and 6 a.m. in a manner that makes unreasonable noise that disturbs other visitors.

i. No person shall operate an off-highway vehicle without a properly installed spark arrestor.

j. No person shall use or possess any man-made ramp or jump, for the purposes of performing acrobatic or aerial stunts.

k. No person shall construct or use a hunting blind within the SSRA.

Section 3 Penalties

Violations of these interim final supplementary rules are punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months, as provided in Section 303 of the Federal Land Policy and Management Act (43 U.S.C. 1733), and may be subject to the enhanced penalties under the Sentencing Reform Act (18 U.S.C. 3571).

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These interim final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These interim final supplementary rules will not have an effect of $100 million or more on the economy. They are not intended to affect commercial activity, but contain rules of conduct for public use of a certain recreational area. They will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These interim final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The interim final supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues.

Clarity of the Interim Final Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these interim final supplementary rules easier to understand, including answers to questions such as the following:

(1) Are the requirements in the interim final supplementary rules clearly stated?

(2) Do the interim final supplementary rules contain technical language or jargon that interferes with their clarity?

(3) Does the format of the interim final supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

(4) Would the interim final supplementary rules be easier to understand if they were divided into more (but shorter) sections?

(5) Is the description of the interim final supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the interim final supplementary rules? How could this description be more helpful in making the interim final supplementary rules easier to understand?

Please send any comments you have on the clarity of the interim final supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

The BLM has prepared an environmental assessment (EA) dated September 29, 2005, and has found that the interim final supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The interim final supplementary rules merely contain rules of conduct for the Simpson Springs Recreation Area. These rules are designed to protect the environment and the public health and safety. A detailed statement under NEPA is not required. BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The interim final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific public lands. Therefore, BLM has determined under the RFA that these interim final supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These interim final supplementary rules do not constitute a ''major rule'' as defined at 5 U.S.C. 804(2). The interim final supplementary rules merely contain rules of conduct for recreational use of certain public lands. The interim final supplementary rules have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

These interim final supplementary rules do not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor do these interim final supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. The interim final supplementary rules do not require anything of State, local, or tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The interim final supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. The interim final supplementary rules do not address property rights in any form, and do not cause the impairment of anybody's property rights. Therefore, the Department of the Interior has determined that these interim final supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The interim final supplementary rules will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The interim final supplementary rules affect land in only one State, Utah, and do not address jurisdictional issues involving the State government. Therefore, in accordance with Executive Order 13132, BLM has determined that these interim

final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, we have determined that these interim final supplementary rules will not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Consultation and Coordination with Indian Tribal Governments (E.O. 13175)

In accordance with Executive Order 13175, we have found that these interim final supplementary rules do not include policies that have tribal implications. The interim final supplementary rules do not affect lands held for the benefit of Indians, Aleuts, or Eskimos.

Paperwork Reduction Act

These interim final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Dated: December 15, 2006.

Marcus Nielson,

Acting State Director.

[FR Doc. E7–2064 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA and Central Washington University, Department of Anthropology and Museum, Ellensburg, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA and Central Washington University, Department of Anthropology and Museum, Ellensburg, WA. The human remains and associated funerary objects were removed from Yakima County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Burke Museum and Central Washington University professional staff in consultation with representatives of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; and Confederated Tribes of the Warm Springs Reservation of Oregon.

In 1956, human remains representing a minimum of one individual were removed from Wenas Creek (45–YK–51), Yakima County, WA, by Claude Warren, University of Washington student, as a part of an excavation for the Pacific Northwest Pipeline Survey. In 1966, the collection was formally accessioned by the museum (Burke Accn. #1966–85). In February 1974, the Burke Museum legally transferred portions of the human remains from Burial #2 to Central Washington University. No known individual was identified. The 68 associated funerary objects are 13 mammal bone fragments, 2 fish bones, 28 dog bones, 1 rodent bone, 1 deer bone, 1 antler fragment, 10 charcoal fragments, 10 flakes, 1 hammer stone, and 1 unmodified stone.

The burial was discovered in a flexed position at the bottom of a talus slope and was covered with a stone cyst of basalt and river cobbles. There is evidence of burning on the right scapula, but no other indication of cremation. This burial pattern is consistent with Yakama burial practices (Schuster 1990: 338). According to Mr. Warren, a copper kettle was placed over the top of the human remains, indicating a historic burial. The whereabouts of the copper kettle are unknown and the Burke Museum has no record of this copper kettle in their collection.

Wenas Creek falls within the lands ceded to the Confederated Tribes and Bands of the Yakama Nation, Washington in the Yakima Treaty of 1855. Published ethnographic information confirms that the area surrounding Wenas Creek was culturally affiliated with the Yakama (Swanton 1952, Daugherty 1973, Schuster 1998, Mooney 1896, Ray 1936, and Spier 1936). Furthermore, the Confederated Tribes and Bands of the Yakama Nation, Washington have identified site 45–YK–51 as part of their traditional occupation area from pre–contact times and within their aboriginal territory. The Si'la–hlama band of the Yakama people occupied the area along the Yakima River between Wenas Creek and Umtanum Creeks (Swanton 1952). The Lower Yakima bands were also associated with the area (Schuster 1998). Descendants of the Si'la–hlama and Lower Yakima bands are members of the Confederated Tribes and Bands of the Yakama Nation, Washington.

Officials of the Burke Museum and Central Washington University have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Burke Museum and Central Washington University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 68 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Burke Museum and Central Washington University have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes and Bands of the Yakama Nation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–2282 and Lourdes Henebry-DeLeon, NAGPRA Program Director, Central Washington University, Department of Anthropology and Museum, Mailstop 7544, Ellensburg, WA 98926, telephone (509) 963–2671 before March 12, 2007. Repatriation of the human remains and associated funerary objects to the Confederated Tribes and Bands of the Yakama Nation, Washington may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; and Confederated Tribes of the Warm Springs Reservation

of Oregon that this notice has been published.

Dated: January 11, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–2067 Filed 2–7–07; 8:45 am]

BILLING CODE 4312–50–S

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–365–366 and 731–TA–734–735 (Second Review)]

Certain Pasta From Italy and Turkey

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping and countervailing duty orders on certain pasta from Italy and Turkey.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping and countervailing duty orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 2, 2007.

FOR FURTHER INFORMATION CONTACT: Michael Szustakowski (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 5, 2007, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (72 FR 2558, January 19, 2007). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these reviews will be placed in the nonpublic record on June 20, 2007, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on July 17, 2007, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 28, 2007. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 3, 2007, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in *camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is June 29, 2007. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 25, 2007; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before July 25, 2007. On August 23, 2007, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 28, 2007, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the

Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 2, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–2075 Filed 2–7–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Clean Water and Clean Air Acts

Notice is hereby given that on January 25, 2007, a proposed consent decree in *United States* v. *Duro Textiles, LLC,* Civil Action No. 1:07–cv–10130–GAO, was lodged with the United States District Court for the District of Massachusetts.

The proposed consent decree will settle the United States' claims for violations of the Clean Water Act, 33 U.S.C. 1251, *et seq.,* and the Clean Air Act, 42 U.S.C. 7401, *et seq.,* related to the failure by Duro Textile, LLC, at its plants in Fall River to, among other things: Comply with wastewater discharge limitations; perform required monitoring of storm water outfalls; incinerate properly volatile organic components from its processes; and keep required records. Pursuant to the proposed consent decree, Duro Textiles, LLC, will pay $480,000 as civil penalty for such violations, comply with record keeping requirements, and maintain compliance with the Acts at its Fall River plants in the future.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Duro Textiles, LLC,* Civil Action No. 1:07–cv–10130–GAO, D.J. Ref. 90–5–1–1–08584.

The proposed consent decree may also be examined at the Office of the United States Attorney, District of Massachusetts, John Moakley Courthouse, 1 Courthouse Way, Room, 9200, Boston, MA, at U.S. EPA Region 1, One Congress Street, Boston, MA. During the public comment period, the proposed consent decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent Decrees.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. If requesting a copy of the proposed consent decree, please so note and enclose a check in the amount of $8.25 (25 cent per page reproduction cost) payable to the U.S. Treasury, or if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–543 Filed 2–7–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on January 25, 2007, a proposed Consent Decree in *United States* v. *Orlyn Joyner, et al.,* Civil Action Number 3:05–CV–257–M–A, was lodged with the United States District Court for the Northern District of Mississippi.

In this action the United States sought, under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607, recovery of response costs incurred by the Environmental Protection Agency (''EPA'') in response to releases of hazardous substances at the Allied Electroplating Superfund Site located in Eupora, Webster County, Mississippi. Joyner's Die Casting & Plating, Inc. and Orlyn Joyner (''Defendants'') are paying $350,000, collectively. This settlement is based on the Defendants' limited ability to pay.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed settlement agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Orlyn Joyner, et al.,* DOJ Ref. #90–11–3–08713.

During the public comment period, the proposed settlement agreement may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/open.html.* A copy of the proposed settlement agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood, *tonia.fleetwood@usdoj.gov,* Fax No. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.50 (25 cents per page reproduction cost) payable to the U.S. Treasury, to obtain a copy of the Consent Decree.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–544 Filed 2–7–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Under the Clean Air Act

Notice is hereby given that on January 29, 2007, a proposed Stipulation and Order (''the Stipulation'') in *In re Westwood Chemical Corp.,* Docket No. 05–B–35298 (CGM), and *Banner* v. *HSBC Bank, National Association, et al.,* Adversary Proceeding No. 06–09061 (CGM), was lodged with the United States Bankruptcy Court for the Southern District of New York.

In this action the United States, on behalf of the Environmental Protection Agency (''EPA''), filed an administrative claim for expenses incurred in a CERCLA response action performed at the Debtor Westwood Chemical Corporation's Site, 46 Tower Road, Middletown, New York 10941, in Orange County, where Debtor manufactured chemicals. After EPA's response action concluded, the Bankruptcy Trustee sold the Westwood

Site, including all real property, machinery, and equipment, for a cash payment of $3 million. Under the Stipulation, the Trustee will disburse the $3 million in sale proceeds as follows: EPA will receive $1.25 million, in full settlement of its administrative claim; the State of New York will receive $40,000; HSBC Bank will receive $750,000; the Town of Wallkill and County of Orange will collectively receive $275,000; Eleanor Koch will receive $62,500; Rider, Weiner, Frankel & Calhelha, PC, will receive $41,750, with the remainder to be released to the Trustee to pay administrative expenses as authorized by the Court. The Stipulation also provides that, in consideration of the payments made pursuant to the Stipulation, the United States on behalf of EPA covenants not to bring a civil action or take administrative action against the Debtor's estate, the Trustee, and/or HSBC Bank pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, relating to the Westwood Site. The Stipulation also provides to the Debtor's estate, the Trustee, and/or HSBC Bank protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. 9613(f)(2), for matters addressed in the Stipulation. In addition, the Debtor's Estate, the Trustee, and HSBC Bank covenant not to sue or assert causes of action against the United States with respect to the Westwood Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Stipulation. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Westwood Chemical Corporation,* and/or *Banner* v. *HSBC Bank, National Association, et al.,* D.J. Ref. 90–11–2–08602.

The Stipulation may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at U.S. EPA Region II, 290 Broadway, New York, New York 10007. During the public comment period, the Stipulation may also be examined on the following Department of Justice Web site *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Stipulation may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–542 Filed 2–7–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Proposed Information Collection Request Submitted for Public Comment and Recommendations; Form ETA–232, the Domestic Agricultural In-Season Wage Report, and Form ETA–232A, Wage Survey Interview Record

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal Agencies with an opportunity to comment on the proposed and/or continuing collection of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before April 9, 2007.

ADDRESSES: Send comments to Brian Pasternak, Chief, Division of Policy Analysis and Technical Assistance, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Room C–4312, 200 Constitution Avenue NW., Washington, DC 20210–0001, 202–693–3010 (this is not a toll-free number), fax 202–693–2768.

FOR FURTHER INFORMATION CONTACT: Isabel D. Jean-Pierre, Temporary Programs Manager, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Room C–4312, 200 Constitution Avenue NW., Washington, DC 202–693–3010 (this is not a toll-free number), fax 202–693–2768.

SUPPLEMENTARY INFORMATION:

I. *Background.* The Wagner-Peyser Act, as amended, provides that the State Workforce Agencies throughout the country shall assist the Office of Foreign Labor Certification in promoting uniformity in its administrative and Statistical procedures, furnishing and publishing information as to opportunities for employment and other information of value in the operation of its system, and maintaining a system for clearing labor between the states.

Pursuant to the Wagner-Peyser Act, the U.S. Department of Labor has established regulations at 20 CFR 653.500 covering the processing of agricultural intrastate and interstate job orders. Section 563.501 provides that the wage offered by employers must not be less than the prevailing wage or the applicable Federal or state minimum wage; whichever is higher. Also, the regulations for the temporary employment of H–2A alien agricultural and H–2 logging workers in the United States, 20 CFR, Part 655, Subpart B and C implementing relevant sections of the Immigration Reform and Control Act of 1986, requires farmers and other agricultural employers to pay workers the adverse effect wage rate, the prevailing wage rate, or the legal Federal or State minimum wage rate; whichever is highest.

The prevailing wage rate is used to implement these regulations covering intrastate and interstate recruitment of farmworkers. The vehicle for establishing the prevailing wage rate is Form ETA–232, The Domestic Agricultural In-Season Wage Report, and Form ETA–232–A, Wage Survey Interview Record. The ETA–232 Report contains the prevailing wage finding based on survey data collected from employers and reported by the States on Form ETA–232–A.

II. *Desired Focus of Comments.* Currently, the Employment and Training Administration is soliciting comments concerning the proposed request to extend the expiration date of the collection request to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are required to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above in the addressee section of this notice.

III. *Current Actions.* Activity covered by regulations at 20 CFR 653.500 and 20 CFR 655 (B)(C), particularly the H–2A program, continues to expand, further increasing the need for accurate and timely wage information on which to base prevailing agricultural wage determinations. There is no similar wage information which is available or can be used for these determinations which apply to a specific crop or livestock activity, in a specific agricultural wage reporting area for a specific period of time during the peak harvest season.

Type of Review: Extension of Approved Collection.

Agency: Employment and Training Administration.

Title: Domestic Agricultural In-Season Wage Report, Form ETA–232 and Wage Survey Interview Record, Form ETA–232–A.

OMB Number: 1205–0017.

Cite/Reference/Form/etc: ETA–232 and ETA 232–A.

• *Total Respondents:* 38,855.

• *Frequency:* Annually.

• *Total Responses:* 39,405.

• *Average Time Per Response:* 11 hours (ETA Form 232); 15 minutes (ETA Form 232A).

Form/activity	Total respondents	Frequency	Total responses	Average time per response (hours)	Burden (hours)
ETA–232	50	Annually	600	11	6600
ETA–232–A	38,805	Annually	38,805	¼	9,701
Totals	38,855		39,405		16,301

Total Burden Cost (capital/startup): -0-

Total Burden Cost (operating/maintaining): -0-

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed at Washington, DC., this 31st day of January 2007.

William L. Carlson,

Administrator, Office of Foreign Labor Certification, Employment and Training Administration.

[FR Doc. 07–553 Filed 2–7–07; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Implementation of the Senior Community Service Employment Program (SCSEP) Performance Measures Under Public Law 109–365

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of request for public comments.

SUMMARY: On October 17, 2006, President Bush signed into law the Older Americans Act Amendments of 2006 (OAA–2006). Title V of OAA–2006 authorizes the Senior Community Service Employment Program (SCSEP). The law calls for the Department of Labor (DOL) to establish and implement new SCSEP measures of performance by Program Year (PY) 2007 (which begins July 1, 2007) after consultation with stakeholders. DOL is publishing this notice to solicit public input on implementation of the performance indicators.

Key Dates: To ensure consideration of comments in light of the compressed statutory timeline, please submit comments on or before February 22, 2007. DOL will consider comments submitted after that date to the extent possible.

ADDRESSES: Submit your comments by e-mail to *older.americans@dol.gov.* Comments can also be mailed or hand carried to the Employment and Training Administration, Office of Workforce Investment, Division of Adult Services, Room S–4209, 200 Constitution Avenue, NW., Washington, DC 20210. A summary of all comments received will be made available to the public on the SCSEP Web site at *http://www.doleta.gov/seniors.*

FOR FURTHER INFORMATION CONTACT: Ms. Judith Gilbert via e-mail at *gilbert.judith@dol.gov* or via telephone at (202) 693–3758. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

A. Background

SCSEP provides useful part-time training opportunities in community service activities for persons with low incomes who are 55 years of age or older and assists older workers in transitioning to unsubsidized employment.

In 2000, statutory amendments established program-specific measures to monitor the performance of each grantee. Public Law 106–501, section 513(b).

These measures were:

1. The number of persons served, with particular consideration given to individuals with greatest economic need, greatest social need, or poor employment history or prospects, and individuals who are over the age of 60;
2. Community services provided;
3. Placement into and retention in unsubsidized public or private employment;
4. Satisfaction of the enrollees, employers, and their host agencies with their experiences and the services provided; and
5. Any additional indicators of performance that the Secretary determines to be appropriate.

In addition, grantees were asked to report on three common performance measures that generally apply to federally-funded employment and job training programs. Currently, the common measures are:

1. Entered employment;
2. Retention in employment; and
3. Average earnings.

The OAA–2006 Amendments, found at Public Law 109–365, call for several specific changes to the existing performance accountability system, and require that DOL establish and implement the new SCSEP performance measures after consultation with stakeholders by PY 2007. Specifically,

section 513(a)(1) states that ''The Secretary shall establish and implement, after consultation with grantees, subgrantees and host agencies under this title, States, older individuals, area agencies on aging and other organizations serving older individuals, core measures of performance and additional indicators of performance for each grantee for projects and services carried out under this title.'' Section 513(d)(4) calls for the Department to establish and implement the core measures and additional indicators of performance identified in the 2006 Amendments ''not later than July 1, 2007.'' Further, section 513(a)(2)(C) requires that ''The Secretary and each grantee shall reach agreement on the expected levels of performance for each program year for each of the core indicators of performance * * * Funds may not be awarded under the grant until such agreement is reached.'' Finally, section 513(b)(3) states that ''(t)he Secretary, after consultation with national and state grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the indicators of performance'' described in OAA–2006.

B. Changes to Performance Measures

OAA–2006 identifies five core indicators of performance and two additional indicators of performance in amended section 513(b), and authorizes the Secretary to add any other indicators of performance determined to be appropriate to evaluate services and performance.

The five core indicators in OAA–2006, which incorporate the three common performance measures that generally apply to federally-funded employment and job training programs, are as follows:

1. Hours (in the aggregate) of community service employment;

2. Entry into unsubsidized employment (common measure);

3. Retention in unsubsidized employment for six months (common measure);

4. Earnings (common measure); and,

5. The number of eligible individuals served, including those individuals included in the categories specified in the law for providing a priority for services in section 518(b)(2) and in the categories specified as eligible for extension of the individual time limits in section 518(a)(3)(B)(ii).

The law requires that DOL and grantees reach agreement on expected levels of performance for each of the core indicators of performance for each program year. Failure to meet the expected levels of performance triggers requirements for the development of performance improvement plans by grantees and the provision of technical assistance by DOL. Three consecutive years of failure by a State grantee triggers a requirement that the State conduct a competition for the administration of the program within the State, while four consecutive years of failure by a national grantee will render the grantee ineligible to participate in the subsequent grant competition for the program.

The additional indicators of performance specified in OAA–2006 are as follows:

1. Retention in unsubsidized employment for one year;

2. Satisfaction of the participants, employers and their host agencies with their experiences and the services provided; and

3. ''Any other additional indicators of performance'' determined to be appropriate to evaluate services and performance. Section 513(b)(2)(C).

With respect to additional indicators of performance, the law does not require that the DOL and grantees reach agreement on expected levels of performance.

Definitions of both the core and additional indicators are to be issued by regulation after consultation with grantees and other interested parties. DOL will annually evaluate and publish and make available for public review information on the actual performance of each grantee with respect to the levels achieved for all indicators of performance.

C. Consultation

To comply with the statutory timeline, DOL envisions publishing further guidance after consultation with the public, in order to implement the performance measures in time for the PY 2007 grants.

In order to develop policies and procedures for a performance measurement system that will increase performance accountability and improve services to participants, DOL seeks public input and observations on how both the core measures and additional performance measures should be defined and implemented. We invite commenters to share their observations, experiences and insights on any aspect of the SCSEP performance management system, but we are particularly interested in the following areas:

1. *Core indicators:*

Based on your experience with current indicators of performance, what factors should DOL consider in establishing the core indicators? What aspects of the current measures should be maintained? Which should be changed?

Comments should focus on the first and fifth core indicators because the definitions for core measures two through four are already set and generally apply to federally funded job training and employment programs. DOL in particular seeks comments on interpretation of the following terms listed at subsection (a)(3)(B)(ii) or (b)(2) of section 518:

(1) A severe disability, (2) frail or age 75 or older, (3) lives in an area with persistent unemployment and are individuals with severely limited employment prospects, (4) has limited English proficiency or low literacy skills, (5) has a disability, (6) resides in a rural area, (7) is a veteran, (8) has low employment prospects, or 9) is homeless or at risk for homelessness.

In addition, the current policy regarding the fifth indicator is to divide the population groups into two separate measures with one measure relating to all persons served and the second measure relating to services to what is currently referred to as individuals ''most in need.'' We are considering whether to continue with this policy of dividing the indicator into two separate measures but with the change that under OAA–2006 individuals in the categories specified for priority of service and for extension of the individual time limit (rather than those currently referred to as individuals ''most in need'') would be compared to the population of all persons served. We are interested in comments on whether this approach would promote more effective targeting of services, or would a single measure combining both elements for all persons served be as effective and simplify the process?

2. *Retention in unsubsidized employment for one year:*

We are interested in comments to help us establish the point at which the one year measure is taken. For example, should this be measured at the 365th day; at the 5th quarter after the quarter of exit from the SCSEP program; or during the 4th quarter after exit, similar to the Workforce Investment Act Title I Subtitle B 12 month retention measure; or at some other point? If a different point is recommended, please explain the rationale.

3. *Customer satisfaction:*

We are interested in suggestions for ways to measure the satisfaction of participants, employers and host agencies, particularly whether the current methodology shall be carried forward or changed?

4. *Other additional indicators of performance:*

We are interested in suggestions for other indicators to measure successful SCSEP performance.

In particular, should the current performance measure of SCSEP Placement Rate be used, changed or not used as an additional indicator of performance? (The SCSEP Placement Rate compares the number of participants placed into unsubsidized employment, with at least 30 days of employment within the first 90 days of exit from the SCSEP program, to the number of funded positions; the entered employment common measure does not include the 30 day employment requirement.)

5. *Performance outcomes:*

How should DOL determine whether a grantee fails, meets or exceeds expected levels of performance?

6. *Other comments:*

DOL welcomes comments and suggestions on any other aspects of implementing the new performance measures.

Signed at Washington, DC, this 2nd day of February, 2007.

Emily Stover DeRocco,

Assistant Secretary.

[FR Doc. E7–2084 Filed 2–7–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities; Announcement of Office of Management and Budget (OMB) Control Numbers Under the Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice; announcement of OMB approval of information collection requirements.

SUMMARY: The Occupational Safety and Health Administration announces that OMB has extended its approval for a number of information collection requirements found in sections of 29 CFR parts 1910, 1915, 1917, 1918, 1926, and 1928. OSHA sought approval under the Paperwork Reduction Act of 1995 (PRA–95), and, as required by that Act, is announcing the approval numbers and expiration dates for those requirements.

DATES: This notice is effective February 8, 2007.

FOR FURTHER INFORMATION CONTACT: Todd Owen or Theda Kenney, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION: In a series of **Federal Register** notices, the Agency announced its requests to OMB to renew its current extensions of approvals for various information collection (paperwork) requirements in its safety and health standards for general industry, shipyard employment, longshoring, marine terminals, the construction industry, and agriculture (i.e., 29 CFR parts 1910, 1915, 1917, 1918, 1926, and 1928). In these **Federal Register** announcements, the Agency provided 60-day comment periods for the public to respond to OSHA's burden hour and cost estimates.

In accordance with PRA–95 (44 U.S.C. 3501–3520), OMB renewed its approval for these information collection requirements and assigned OMB control numbers to these requirements. The table below provides the following information for each of these OMB-approved requirements: The title of the collection; the date of the **Federal Register** notice; the **Federal Register** reference (date, volume, and leading page); OMB's control number; and the new expiration date.

Title	Date of **Federal Register** publication, **Federal Register** reference, and OSHA docket number	OMB Control No.	Expiration date
Benzene (29 CFR 1910.1028)	05/24/2006, 71 FR 29986, Docket No. 1218–0129(2006).	1218–0129	11/30/2009
1,3-Butadiene (29 CFR 1910.1051)	02/24/2006, 71 FR 9607, Docket No. 1218–0170(2006).	1218–0170	07/31/2009
Hazard Communication Standard (29 CFR parts 1910.1200, 1915.1200, 1917.28, 1918.90, 1926.59, and 1928.21.	09/01/2005, 70 FR 52134 Docket No. 1218–0072(2005).	1218–0072	10/31/2009
Lead in General Industry (29 CFR 1910.1025)	10/27/2005, 70 FR 62000, Docket No. 1218–0092(2006).	1218–0092	07/31/2009
Personal Protective Equipment (PPE) for General Industry (29 CFR 1910, subpart I).	07/26/2006, 71 FR 42419, Docket No. 1218–0205(2006).	1218–0205	01/31/2010
Process Safety Management of Highly Hazardous Chemicals (29 CFR 1910.119).	01/30/2006, 71 FR 4941, Docket No. 1218–0200(2006).	1218–0200	10/31/2009
Temporary Labor Camps (29 CFR 1910.142)	12/27/2005, 70 FR 76469, Docket No. 1218–0096(2006).	1218–0096	07/31/2009
13 Carcinogens Standard (29 CFR 1910.1003, 1915.1003, and 1926.1103).	10/19/2005, 70 FR 60856, Docket No. 1218–0085(2005).	1218–0085	02/28/2009
Vehicle-Mounted Elevating and Rotating Work Platforms (29 CFR 1910.67).	08/30/2005, 70 FR 51368, Docket No. 1218–0230(2005).	1218–0230	02/28/2009

In accordance with 5 CFR 1320.5(b), an agency cannot conduct, sponsor, or require a response to a collection of information unless the collection displays a valid OMB control number and the agency informs respondents that they are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on February 5, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. E7–2095 Filed 2–7–07; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V–06–1]

Gibraltar Chimney International, LLC, Hoffmann, Inc., and Kiewit Industrial Co.; Application for Permanent Variance and Interim Order, Grant of Interim Order, and Request for Comments

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of an application for a permanent variance and interim order; grant of interim order; and request for comments.

SUMMARY: Gibraltar Chimney International, LLC, Hoffmann Inc., and Kiewit Industrial Co. (''the applicants'') have applied for a permanent variance from the provisions of the OSHA standards that regulate boatswains' chairs and hoist towers, specifically paragraph (o)(3) of § 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. In addition, the applicants have requested an interim order based on the alternative conditions specified by the variance application. Since these conditions are the same as the conditions specified in other permanent variances granted recently by the Agency for these boatswains'-chair and hoist-tower provisions, OSHA is granting the applicants' request for an interim order.

DATES: Comments and requests for a hearing must be submitted (postmarked, sent, or received) by March 12, 2007. The interim order specified by this notice becomes effective on February 8, 2007.

ADDRESSES: Electronic. Comments and requests for a hearing may be submitted electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile. OSHA allows facsimile transmission of comments that are 10 pages or fewer in length (including attachments), as well as hearing requests. Send these comments and requests to the OSHA Docket Office at (202) 693–1648; hard copies of these comments are not required. Instead of transmitting facsimile copies of attachments that supplement their comments (*e.g.*, studies and journal articles), commenters may submit these attachments, in triplicate hard copy, to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (*i.e.*, V–06–1) so that the Agency can attach them to the appropriate comments.

Regular mail, express delivery, hand (courier) delivery, and messenger service. Submit three copies of comments and any additional material (*e.g.*, studies and journal articles), as well as hearing requests, to the OSHA Docket Office, Docket No. V–06–1, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone: (202) 693–2350. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office and Department of Labor are 8:15 a.m. to 4:45 p.m., e.t.

Instructions. All submissions must include the Agency name and the OSHA docket number (*i.e.*, OSHA Docket No. V–06–1). Comments and other material, including any personal information, are placed in the public docket without revision, and will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as social security numbers, birth dates, and medical data.

Docket. To read or download comments or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the address above. Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download through this Web site. However, all submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT: For information about this notice contact MaryAnn S. Garrahan, Director, Office of Technical Programs and Coordination Activities, Room N–3655, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2110; fax: (202) 693–1644. For additional copies of this **Federal Register** notice, contact the Office of Publications, Room N–3103, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210 (telephone: (202) 693–1888). Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's Web site on the Internet at *http://www.osha.gov/.* Contact the OSHA Docket Office for information about docket materials not available through the OSHA Web site, and for assistance in using the website to locate docket submissions.

Additional information about this variance application also is available from the following OSHA Regional Offices:

- U.S. Department of Labor, OSHA, JFK Federal Building, Room E340, Boston, MA 02203; telephone: (617) 565–9860; fax: (617) 565–9827.
- U.S. Department of Labor, OSHA, 201 Varick St., Room 670, New York, NY 10014; telephone: (212) 337–2378; fax: (212) 337–2371.
- U.S. Department of Labor, OSHA, Curtis Building, Suite 740 West, 170 South Independence Mall West, Philadelphia, PA 19106; telephone: (215) 861–4900; fax: (215) 861–4904.
- U.S. Department of Labor, OSHA, Sam Nunn Atlanta Federal Center, 61 Forsyth St., SW., Room 6T50, Atlanta, GA 30303; telephone: (404) 562–2300; fax: (404) 562–2295.
- U.S. Department of Labor, OSHA, 230 South Dearborn St., Room 3244, Chicago, IL 60604; telephone: (312) 353–2220; fax: (312) 353–7774.
- U.S. Department of Labor, OSHA, 525 Griffin St., Room 602, Dallas, TX 75202; telephone: (972) 850–4145; fax: (972) 850–4149.
- U.S. Department of Labor, OSHA, City Center Square, 1100 Main St., Suite 800, Kansas City, MO 64105; telephone: (816) 426–5861; fax: (816) 426–2750.
- U.S. Department of Labor, OSHA, 1999 Broadway, Suite 1690, Denver, CO 80202–5716 (overnight), P.O. Box 46550, Denver, CO 80201–6550 (mail); telephone: (720) 264–6550; fax: (720) 264–6585.
- U.S. Department of Labor, OSHA, 71 Stevenson St., Room 420, San Francisco, CA 94105; telephone: (415) 975–4310; fax: (415) 975–4319.
- U.S. Department of Labor, OSHA, 1111 Third Ave., Suite 715, Seattle, WA 98101–3212; telephone: (206) 553–5930; fax: (206) 553–6499.

I. Notice of Application

Gibraltar Chimney International, LLC, Hoffmann, Inc., and Kiewit Industrial Co. (hereafter, ''the applicants'') have submitted applications for a permanent variance under Section 6(d) of the

Occupational Safety and Health Act of 1970 (29 U.S.C. 655) and 29 CFR 1905.11 (''Variances and other relief under section 6(d)'') (see Exs. 4–1 and 4–2).[1] The applicants seek a permanent variance from § 1926.452(o)(3), which provides the tackle requirements for boatswains' chairs. The applicants also request a variance from paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552 that regulate hoist towers. These latter paragraphs specify the following requirements:

- (c)(1)—Construction requirements for hoist towers outside a structure;
- (c)(2)—Construction requirements for hoist towers inside a structure;
- (c)(3)—Anchoring a hoist tower to a structure;
- (c)(4)—Hoistway doors or gates;
- (c)(8)—Electrically interlocking entrance doors or gates to the hoistway and cars;
- (c)(13)—Emergency stop switch located in the car;
- (c)(14)(i)—Using a minimum of two wire ropes for drum hoisting; and
- (c)(16)—Material and component requirements for construction of personnel hoists.

The applicants contend that the permanent variance would provide their employees with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions.

The places of employment affected by this variance application are the present and future projects where the applicants construct chimneys, located in states under federal authority, as well as State-plan states that have safety and health plans approved by OSHA under Section 18 of the Occupational Safety and Health (OSH) Act (29 U.S.C. 667) and 29 CFR part 1952 (''Approved State Plans for Enforcement of State Standards''). The applicants certify that they have provided employee representatives of current employees who would be affected by the permanent variance with a copy of their variance requests. The applicants also certify that they notified their employees of the variance requests by posting a summary of the application and specifying where they can examine a copy of the application at a prominent location or locations where they normally post notices to their employees (or instead of a summary, posting the application itself); and by other appropriate means. In addition, the applicants have informed employees and their representatives of their right to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on this variance application.

II. Multi-State Variance

In their variance applications, the employers stated that they perform chimney work in a number of States and Territories that operate OSHA-approved safety and health programs under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*). Twenty-six States and Territories have OSHA-approved safety and health programs.[2] As part of this variance process, the Directorate of Cooperative and State Programs will notify the State-Plan States and Territories of this variance application and advise them that unless they object, OSHA will assume the State's position regarding this application is the same as its position regarding prior identical variances. Fourteen States have agreed to the terms of the earlier requests (*i.e.*, Alaska, Arizona, Indiana, Maryland, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Wyoming). Four States have imposed additional requirements and conditions (*i.e.*, Kentucky, Michigan, South Carolina, and Utah), and four States have objected to the earlier variance requests (*i.e.*, California, Hawaii, Iowa, and Washington).

III. Supplementary Information

A. Overview

The applicants construct, remodel, repair, maintain, inspect, and demolish tall chimneys made of reinforced concrete, brick, and steel. This work, which occurs throughout the United States, requires the applicants to transport employees and construction material to and from elevated work platforms and scaffolds located, respectively, inside and outside tapered chimneys. While tapering contributes to the stability of a chimney, it requires frequent relocation of, and adjustments to, the work platforms and scaffolds so that they will fit the decreasing circumference of the chimney as construction progresses upwards.

To transport employees to various heights inside and outside a chimney, the applicants propose to use a hoist system that would lift and lower personnel-transport devices that include personnel cages, personnel platforms, or boatswains' chairs. The applicants also would attach a hopper or concrete bucket to the hoist system to raise or lower material inside or outside a chimney. The applicants would use personnel cages, personnel platforms, or boatswains' chairs solely to transport employees with the tools and materials necessary to do their work, and not to transport only materials or tools in the absence of employees.

The applicants would use a hoist engine, located and controlled outside the chimney, to power the hoist system. The system also would consist of a wire rope that: spools off the hoist drum into the interior of the chimney; passes to a footblock that redirects the rope from the horizontal to the vertical planes; goes from the footblock through the overhead sheaves above the elevated platform; and finally drops to the bottom landing of the chimney where it connects to the personnel or material transport. The cathead, which is a superstructure at the top of a derrick, supports the overhead sheaves. The overhead sheaves (and the vertical span of the hoist system) move upward with the derrick as chimney construction progresses. Two guide cables, suspended from the cathead, eliminate swaying and rotation of the load. If the hoist rope breaks, safety clamps activate and grip the guide cables to prevent the load from falling. The applicants would use a headache ball, located on the hoist rope directly above the load, to counterbalance the rope's weight between the cathead sheaves and the footblock.

The applicants would implement additional conditions to improve employee safety, including:

- Attaching the wire rope to the personnel cage using a keyed-screwpin shackle or positive-locking link;
- Adding limit switches to the hoist system to prevent overtravel by the personnel- or material-transport devices;
- Providing the safety factors and other precautions required for personnel hoists specified by the pertinent provisions of § 1926.552(c), including canopies and shields to protect employees located in a personnel cage from material that may fall during hoisting and other overhead activities;
- Providing falling-object protection for scaffold platforms as specified by § 1926.451(h)(1);

[1] The principle address for Hoffman, Inc. is 6001 49th St. South, Muscatine, IA 52761, and the principal address for Gibraltar Chimney International, LLC is 92 Cooper Ave., Box 386, Tonawanda, NY 14151–0386.

[2] Three State-Plan States (*i.e.*, Connecticut, New Jersey, and New York) and one Territory (*i.e.*, Virgin Islands) limit their occupational safety and health authority to public-sector employees only. State-Plan States and Territories that have jurisdiction over both public- and private-sector employers and employees are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

• Conducting tests and inspections of the hoist system as required by §§ 1926.20(b)(2) and 1926.552(c)(15);
• Establishing an accident-prevention program that conforms to § 1926.20(b)(3);
• Ensuring that employees who use a personnel platform or boatswains' chair wear full-body harnesses and lanyards, and that the lanyards are attached to lifelines during the entire period of vertical transit; and
• Securing the lifelines (used with a personnel platform or boatswains' chair) to the rigging at the top of the chimney and to a weight at the bottom of the chimney to provide maximum stability to the lifelines.

B. Previous Variances From §§ 1926.452(o)(3) and 1926.552(c)

Since 1973, a number of chimney-construction companies demonstrated to OSHA that several of the hoist-tower requirements of § 1926.552(c) present access problems that pose a serious danger to their employees. These companies received permanent variances from these personnel-hoist and boatswains'-chair requirements, and they used essentially the same alternate apparatus and procedures that the applicants are now proposing to use in this variance application. The Agency published the permanent variances for these companies at 38 FR 8545 (April 3, 1973), 44 FR 51352 (August 31, 1979), 50 FR 20145 (May 14, 1985), 50 FR 40627 (October 4, 1985), 52 FR 22552 (June 12, 1987), 68 FR 52961 (September 8, 2003), 70 FR 72659 (December 6, 2005), and 71 FR 10557 (March 1, 2006).[3]

In 1980, the Agency evaluated the alternative conditions specified in the permanent variances that it had granted to chimney-construction companies as of that date. In doing so, OSHA observed hoisting operations conducted by these companies at various construction sites. These evaluations found that, while the alternative conditions generally were safe, compliance with the conditions among the companies was uneven (see Exs. 4–3 and 4–4). Additionally, the National Chimney Construction Safety and Health Advisory Committee, an industry-affiliated organization, conducted evaluations of the hoist systems that provided useful information regarding the safety and efficacy of the alternative conditions (see Ex. 4–5).

The permanent variance granted by OSHA to American Boiler and Chimney Co. and Oak Park Chimney Corp. (see 68 FR 52961, September 8, 2003) updated the permanent variances granted by the Agency in the 1970s and 1980s by clarifying the alternative conditions and citing the most recent consensus standards and other references. On the basis of this experience and knowledge, the Agency finds that the applicants' request for a permanent variance is consistent with the permanent variances that OSHA has granted previously to other employers in the chimney-construction industry. Therefore, the Agency believes that the conditions specified in this variance application will provide the applicants' employees with at least the same level of safety that they would receive from § 1926.452(o)(3) and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552.

C. Requested Variance From § 1926.452(o)(3)

The applicants state that it is necessary, on occasion, to use a boatswains' chair to transport employees to and from a bracket scaffold on the outside of an existing chimney during flue installation or repair work, or to and from an elevated scaffold located inside a chimney that has a small or tapering diameter. Paragraph (o)(3) of § 1926.452, which regulates the tackle used to rig a boatswains' chair, states that this tackle must ''consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced' minimum five-eighth (5/8'') inch diameter first-grade manila rope [or equivalent rope].''

The primary purpose of this paragraph is to allow an employee to safely control the ascent, descent, and stopping locations of the boatswains' chair. However, the applicants note that the required tackle is difficult or impossible to operate on some chimneys that are over 200 feet tall because of space limitations. Therefore, as an alternative to complying with the tackle requirements specified by § 1926.452(o)(3), the applicants propose to use the hoisting system described in section III.A (''Overview'') of this notice, both inside and outside a chimney, to raise or lower employees in a personnel cage to work locations. The applicants would use a personnel cage for this purpose to the extent that adequate space is available; they would use a personnel platform whenever a personnel cage is infeasible because of limited space. However, when limited space also makes a personnel platform infeasible, the applicants then would use a boatswains' chair to lift employees to work locations. The applicants would limit use of the boatswains' chair to elevations above the highest work location that the personnel cage and personnel platform can reach; under these conditions, the applicants would attach the boatswains' chair directly to the hoisting cable only when the structural arrangement precludes the safe use of the block and tackle required by § 1926.452(o)(3).

D. Requested Variance From § 1926.552(c)

Paragraph (c) of § 1926.552 specifies the requirements for enclosed hoisting systems used to transport personnel from one elevation to another. This paragraph ensures that employers transport employees safely to and from elevated work platforms by mechanical means during the construction, alteration, repair, maintenance, or demolition of structures such as chimneys. However, this standard does not provide specific safety requirements for hoisting personnel to and from elevated work platforms and scaffolds in tapered chimneys; the tapered design requires frequent relocation of, and adjustment to, the work platforms and scaffolds. The space in a small-diameter or tapered chimney is not large enough or configured so that it can accommodate an enclosed hoist tower. Moreover, using an enclosed hoist tower for outside operations exposes employees to additional fall hazards because extra bridging and bracing must be installed to support a walkway between the hoist tower and the tapered chimney.

Paragraph (c)(1) of § 1926.552 requires the employer to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the chimney; these enclosures must extend the full height of the hoist tower. The applicants assert that it is impractical and hazardous to locate a hoist tower outside tapered chimneys because it becomes increasingly difficult, as a chimney rises, to erect, guy, and brace a hoist tower; under these conditions, access from the hoist tower to the chimney or to the movable scaffolds used in constructing the chimney exposes employees to a serious fall hazard. Additionally, the applicants note that the requirement to extend the enclosures 10 feet above the outside scaffolds often exposes the employees

[3] Zurn Industries, Inc. received two permanent variances from OSHA. The first variance, granted on May 14, 1985 (50 FR 20145), addressed the boatswains'-chair provision (then in paragraph (1)(5) of § 1926.451), as well as the hoist-platform requirements of paragraphs (c)(1), (c)(2), (c)(3), and (c)(14)(i) of § 1926.552. The second variance, granted on June 12, 1987 (52 FR 22552), included these same paragraphs, as well as paragraphs (c)(4), (c)(8), (c)(13), and (c)(16) of § 1926.552.

involved in building these extensions to dangerous wind conditions.

Paragraph (c)(2) of § 1926.552 requires that employers enclose all four sides of a hoist tower even when the tower is located inside a chimney; the enclosure must extend the full height of the tower. The applicants contend that it is hazardous for employees to erect and brace a hoist tower inside a chimney, especially small-diameter or tapered chimneys, or chimneys with sublevels, because these structures have limited space and cannot accommodate hoist towers; space limitations result from chimney design (e.g., tapering), as well as reinforced steel projecting into the chimney from formwork that is near the work location.

As an alternative to complying with the hoist-tower requirements of § 1926.552(c)(1) and (c)(2), the applicants propose to use the rope-guided hoist system described above in section III.A (''Overview'') of this application to transport employees to and from work locations inside and outside chimneys. Use of the proposed hoist system would eliminate the need for the applicants to comply with other provisions of § 1926.552(c) that specify requirements for hoist towers. Therefore, the applicants are requesting a permanent variance from several other closely-related provisions, as follows:

- (c)(3)—Anchoring the hoist tower to a structure;
- (c)(4)—Hoistway doors or gates;
- (c)(8)—Electrically interlocking entrance doors or gates that prevent hoist movement when the doors or gates are open;
- (c)(13)—Emergency stop switch located in the car;
- (c)(14)(i)—Using a minimum of two wire ropes for drum-type hoisting; and
- (c)(16)—Construction specifications for personnel hoists, including materials, assembly, structural integrity, and safety devices.

The applicants assert that the proposed hoisting system would protect its employees at least as effectively as the hoist-tower requirements of § 1926.552(c).

IV. Grant of Interim Order

In addition to requesting a permanent variance, the applicants also requested an interim order that would remain in effect until the Agency makes a decision on their application for a permanent variance. During this period, the applicants must comply fully with the conditions of the interim order as an alternative to complying with the tackle requirements provided for boatswains' chairs by § 1926.452(o)(3) and the requirements for hoist towers specified by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552.

Based on its previous experience with permanent variances from these provisions granted to other companies, OSHA believes that an interim order is justified in this case. As noted above in section III.B (''Previous Variances * * * ''), the Agency has granted a number of permanent variances from these provisions since 1973. Over this period, the affected companies have used effectively the alternative conditions specified in the variances. Moreover, the conditions of the interim order requested by the applicants substantially duplicate the conditions approved recently in the permanent variance granted to American Boiler and Chimney Co. and Oak Park Chimney Corp. (see 68 FR 52961). In granting this permanent variance to American Boiler and Chimney Co. and Oak Park Chimney Corp., the Agency stated, ''[W]hen the employers comply with the conditions of the following order, their employees will be exposed to working conditions that are at least as safe and healthful as they would be if the employers complied with paragraph (o)(3) of § 1926.452, and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552.'' (See 68 FR 52967.)

Having determined previously that the alternative conditions proposed by the applicants will protect employees at least as effectively as the requirements of paragraph (o)(3) of § 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552, OSHA has decided to grant an interim order to the applicants pursuant to the provisions of § 1905.11(c). Accordingly, in lieu of complying with paragraph (o)(3) of § 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552, the applicants will: (1) Provide notice of this grant of interim order to the employees affected by the conditions of the interim order using the same means it used to inform these employees of their applications for a permanent variance; and (2) comply with the conditions listed below in section V (''Specific Conditions of the Interim Order * * * '') of this application for the period between the date of this **Federal Register** notice and the date the Agency publishes its final decision on the application in the **Federal Register**; the interim order will remain in effect during this period unless OSHA modifies or revokes it in accordance with the requirements of § 1905.13.

V. Specific Conditions of the Interim Order and the Application for a Permanent Variance

The following conditions apply to the interim order being granted by OSHA to Gibraltar Chimney International, LLC, Hoffmann, Inc., and Kiewit Industrial Co., as part of their applications for a permanent variance described in this **Federal Register** notice. In addition, these conditions specify the alternatives to the requirements of paragraph (o)(3) of § 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552 that the applicants are proposing in their application for a permanent variance. These conditions include: [4]

1. Scope

(a) The interim order/permanent variance applies/would apply only to tapered chimneys when the applicants use a rope-guided hoist system during inside or outside chimney construction to raise or lower their employees between the bottom landing of a chimney and an elevated work location on the inside or outside surface of the chimney.

(b) When using a rope-guided hoist system as specified in this permanent variance, the applicants must/would:

(i) Use the personnel cages, personnel platforms, or boatswains' chairs raised and lowered by the rope-guided hoist system solely to transport employees with the tools and materials necessary to do their work; and

(ii) Attach a hopper or concrete bucket to the rope-guided hoist system to raise and lower all other materials and tools inside or outside a chimney.

(c) Except for the requirements specified by 29 CFR 1926.452(o)(3) and 1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16), the applicants must/would comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926.

2. Replacing a Personnel Cage With a Personnel Platform or a Boatswains' Chair

(a) *Personnel platform.* When the applicants demonstrate that available space makes a personnel cage for transporting employees infeasible, they may replace the personnel cage with a personnel platform when they limit use of the personnel platform to elevations above the last work location that the personnel cage can reach.

(b) *Boatswains' chair.* The applicants must/would:

[4] In these conditions, the verb ''must'' applies to the interim order, while the verb ''would'' pertains to the application for a permanent variance.

(i) Before using a boatswains' chair, demonstrate that available space makes it infeasible to use a personnel platform for transporting employees;

(ii) Limit use of a boatswains' chair to elevations above the last work location that the personnel platform can reach; and

(iii) Use a boatswains' chair in accordance with block-and-tackle requirements specified by 29 CFR 1926.452(o)(3), unless they can demonstrate that the structural arrangement of the chimney precludes such use.

3. Qualified Competent Person

(a) The applicants must/would:

(i) Provide a qualified competent person, as specified in paragraphs (f) and (m) of 29 CFR 1926.32, who is responsible for ensuring that the design, maintenance, and inspection of the hoist system comply with the conditions of this grant and with the appropriate requirements of 29 CFR part 1926 (''Safety and Health Regulations for Construction''); and

(ii) Ensure that the qualified competent person is present at ground level to assist in an emergency whenever the hoist system is raising or lowering employees.

(b) The applicants must/would use a qualified competent person to design and maintain the cathead described under Condition 8 (''Cathead and Sheave'') below.

4. Hoist Machine

(a) *Type of hoist.* The applicants must/would designate the hoist machine as a portable personnel hoist.

(b) *Raising or lowering a transport.* The applicants must/would ensure that:

(i) The hoist machine includes a base-mounted drum hoist designed to control line speed; and

(ii) Whenever they raise or lower a personnel or material hoist (*e.g.*, a personnel cage, personnel platform, boatswains' chair, hopper, concrete bucket) using the hoist system:

(A) The drive components are engaged continuously when an empty or occupied transport is being lowered (i.e., no ''freewheeling'');

(B) The drive system is interconnected, on a continuous basis, through a torque converter, mechanical coupling, or an equivalent coupling (*e.g.*, electronic controller, fluid clutches, hydraulic drives).

(C) The braking mechanism is applied automatically when the transmission is in the neutral position and a forward-reverse coupling or shifting transmission is being used; and

(D) No belts are used between the power source and the winding drum.

(c) *Power source.* The applicants must/would power the hoist machine by an air, electric, hydraulic, or internal-combustion drive mechanism.

(d) *Constant-pressure control switch.* The applicants must/would:

(i) Equip the hoist machine with a hand- or foot-operated constant-pressure control switch (i.e., a ''deadman control switch'') that stops the hoist immediately upon release; and

(ii) Protect the control switch to prevent it from activating if the hoist machine is struck by a falling or moving object.

(e) *Line-speed indicator.* The applicants must/would:

(i) Equip the hoist machine with an operating line-speed indicator maintained in good working order; and

(ii) Ensure that the line-speed indicator is in clear view of the hoist operator during hoisting operations.

(f) *Braking systems.* The applicants must/would equip the hoist machine with two (2) independent braking systems (i.e., one automatic and one manual) located on the winding side of the clutch or couplings, with each braking system being capable of stopping and holding 150 percent of the maximum rated load.

(g) *Slack-rope switch.* The applicants must/would equip the hoist machine with a slack-rope switch to prevent rotation of the winding drum under slack-rope conditions.

(h) *Frame.* The applicants must/would ensure that the frame of the hoist machine is a self-supporting, rigid, welded-steel structure, and that holding brackets for anchor lines and legs for anchor bolts are integral components of the frame.

(i) *Stability.* The applicants must/would secure hoist machines in position to prevent movement, shifting, or dislodgement.

(j) *Location.* The applicants must/would:

(i) Locate the hoist machine far enough from the footblock to obtain the correct fleet angle for proper spooling of the cable on the drum; and

(ii) Ensure that the fleet angle remains between one-half degree (½°) and one and one-half degrees (1–½°) for smooth drums, and between one-half degree (½°) and two degrees (2°) for grooved drums, with the lead sheave centered on the drum.[5]

(k) *Drum and flange diameter.* The applicants must/would:

(i) Provide a winding drum for the hoist that is at least 30 times the diameter of the rope used for hoisting; and

(ii) Ensure that the winding drum has a flange diameter that is at least one and one-half (1–½) times the winding-drum diameter.

(l) *Spooling of the rope.* The applicants must/would never spool the rope closer than two (2) inches (5.1 cm) from the outer edge of the winding-drum flange.

(m) *Electrical system.* The applicants must/would ensure that all electrical equipment is weatherproof.

(n) *Limit switches.* The applicants must/would equip the hoist system with limit switches and related equipment that automatically prevent overtravel of a personnel cage, personnel platform, boatswains' chair, or material-transport device at the top of the supporting structure and at the bottom of the hoistway or lowest landing level.

5. Methods of Operation

(a) *Employee qualifications and training.* The applicants must/would:

(i) Ensure that only trained and experienced employees, who are knowledgeable of hoist-system operations, control the hoist machine; and

(ii) Provide instruction, periodically and as necessary, on how to operate the hoist system to each employee who uses a personnel cage, personnel platform, or boatswains' chair for transportation.

(b) *Speed limitations.* The applicants must/would not operate the hoist at a speed in excess of:

(i) Two hundred and fifty (250) feet (76.9 m) per minute when a personnel cage is being used to transport employees;

(ii) One hundred (100) feet (30.5 m) per minute when a personnel platform or boatswains' chair is being used to transport employees; or

(iii) A line speed that is consistent with the design limitations of the system when only material is being hoisted (i.e., using a dedicated material-transport device such as a hopper or concrete bucket).

(c) *Communication.* The applicants must/would:

(i) Use an electronic voice-communication system[6] to maintain communication between the hoist operator and the employees located in

[5] This provision adopts the definition of, and specifications for, fleet angle from *Cranes and Derricks,* H. I. Shapiro, et al. (eds.); New York: McGraw-Hill; 3rd ed., 1999, page 592. Accordingly, the fleet angle is ''[t]he angle the rope leading onto a [winding] drum makes with the line perpendicular to the drum rotating axis when the lead rope is making a wrap against the flange.''

[6] OSHA is revising the phrase ''a voice-mediated intercommunication system'' used in previous variances to ''an electronic voice-communication systems'' to clarify the requirement.

or on a moving personnel cage, personnel platform, or boatswains' chair;

(ii) Stop hoisting if, for any reason, the communication system fails to operate effectively; and

(iii) Resume hoisting only when the site superintendent determines that it is safe to do so.

6. Hoist Rope

(a) *Grade.* The applicants must/would use a wire rope for the hoist system (i.e., ''hoist rope'') that consists of extra-improved plow steel, an equivalent grade of non-rotating rope, or a regular lay rope with a suitable swivel mechanism.

(b) *Safety factor.* The applicants must/would maintain a safety factor of at least eight (8) times the safe workload throughout the entire length of hoist rope.

(c) *Size.* The applicants must/would use a hoist rope that is at least one-half (1/2) inch (1.3 cm) in diameter.

(d) *Inspection, removal, and replacement.* The applicants must/would:

(i) Thoroughly inspect the hoist rope before the start of each job and on completing a new setup;

(ii) Maintain the proper diameter-to-diameter ratios between the hoist rope and the footblock and the sheave by inspecting the wire rope regularly (see Conditions 7(c) and 8(d) below); and

(iii) Remove and replace the wire rope with new wire rope when any condition specified by 29 CFR 1926.552(a)(3) occurs.

(e) *Attachments.* The applicants must/would attach the rope to a personnel cage, personnel platform, or boatswains' chair with a keyed-screwpin shackle or positive-locking link.

(f) *Wire-rope fastenings.* When the applicants use clip fastenings (e.g., U-bolt wire-rope clips) with wire ropes, they must/would:

(i) Use Table H–20 of 29 CFR 1926.251 to determine the number and spacing of clips;

(ii) Use at least three (3) drop-forged clips at each fastening;

(iii) Install the clips with the ''U'' of the clips on the dead end of the rope; and

(iv) Space the clips so that the distance between them is six (6) times the diameter of the rope.

7. Footblock

(a) *Type of block.* The applicants must/would use a footblock:

(i) Consisting of construction-type blocks of solid single-piece bail with a safety factor that is at least four (4) times the safe workload, or an equivalent block with roller bearings;

(ii) Designed for the applied loading, size, and type of wire rope used for hoisting;

(iii) Designed with a guard that contains the wire rope within the sheave groove;

(iv) Bolted rigidly to the base; and

(v) Designed and installed so that it turns the moving wire rope to and from the horizontal or vertical direction as required by the direction of rope travel.

(b) *Directional change.* The applicants must/would ensure that the angle of change in the hoist rope from the horizontal to the vertical direction at the footblock is approximately 90°.

(c) *Diameter.* The applicants must/would ensure that the line diameter of the footblock is at least 24 times the diameter of the hoist rope.

8. Cathead and Sheave

(a) *Support.* The applicants must/would use a cathead (i.e., ''overhead support'') that consists of a wide-flange beam, or two (2) steel-channel sections securely bolted back-to-back to prevent spreading.

(b) *Installation.* The applicants must/would ensure that:

(i) All sheaves revolve on shafts that rotate on bearings; and

(ii) The bearings are mounted securely to maintain the proper bearing position at all times.

(c) *Rope guides.* The applicants must/would provide each sheave with appropriate rope guides to prevent the hoist rope from leaving the sheave grooves when the rope vibrates or swings abnormally.

(d) *Diameter.* The applicants must/would use a sheave with a diameter that is at least 24 times the diameter of the hoist rope.

9. Guide Ropes

(a) *Number and construction.* The applicants must/would affix two (2) guide ropes by swivels to the cathead. The applicants must/would ensure that the guide ropes:

(i) Consist of steel safety cables not less than one-half (1/2) inch (1.3 cm) in diameter; and

(ii) Be free of damage or defect at all times.

(b) *Guide rope fastening and alignment tension.* The applicants must/would fasten one end of each guide rope securely to the overhead support, with appropriate tension applied at the foundation.

(c) *Height.* The applicants must/would rig the guide ropes along the entire height of the hoist-machine structure.

10. Personnel Cage

(a) *Construction.* The applicants must/would ensure that the personnel cage is of steel-frame construction and capable of supporting a load that is four (4) times its maximum rated load capacity. The applicants also must/would ensure that the personnel cage has:

(i) A top and sides that are permanently enclosed (except for the entrance and exit);

(ii) A floor securely fastened in place;

(iii) Walls that consist of 14-gauge, one-half (1/2) inch (1.3 cm) expanded metal mesh, or an equivalent material;

(iv) Walls that cover the full height of the personnel cage between the floor and the overhead covering;

(v) A sloped roof constructed of one-eighth (1/8) inch (0.3 cm) aluminum, or an equivalent material; and

(vi) Safe handholds (e.g., rope grips—but not rails or hard protrusions [7]) that accommodate each occupant.

(b) *Overhead weight.* The applicants must/would ensure that the personnel cage has an overhead weight (e.g., a headache ball of appropriate weight) to compensate for the weight of the hoist rope between the cathead and footblock. In addition, the applicants must/would:

(i) Ensure that the overhead weight is capable of preventing line run; and

(ii) Use a means to restrain the movement of the overhead weight so that the weight does not interfere with safe personnel hoisting.

(c) *Gate.* The applicants must/would ensure that the personnel cage has a gate that:

(i) Guards the full height of the entrance opening; and

(ii) Has a functioning mechanical lock that prevents accidental opening.

(d) *Operating procedures.* The applicants must/would post the procedures for operating the personnel cage conspicuously at the hoist operator's station.

(e) *Capacity.* The applicants must/would:

(i) Hoist no more than four (4) occupants in the cage at any one time; and

(ii) Ensure that the rated load capacity of the cage is at least 250 pounds (113.4 kg) for each occupant so hoisted.

(f) *Employee notification.* The applicants must/would post a sign in each personnel cage notifying employees of the following conditions:

(i) The standard rated load, as determined by the initial static drop test specified by Condition 10(g) (''Static drop tests'') below; and

[7] To reduce impact hazards should employees lose their balance because of cage movement.

(ii) The reduced rated load for the specific job.

(g) *Static drop tests.* The applicants must/would:

(i) Conduct static drop tests of each personnel cage that comply with the definition of ''static drop test'' specified by section 3 (''Definitions'') and the static drop-test procedures provided in section 13 (''Inspections and Tests'') of American National Standards Institute (ANSI) standard A10.22–1990 (R1998) (''American National Standard for Rope-Guided and Nonguided Worker's Hoists—Safety Requirements'');

(ii) Perform the initial static drop test at 125 percent of the maximum rated load of the personnel cage, and subsequent drop tests at no less than 100 percent of its maximum rated load; and

(iii) Use a personnel cage for raising or lowering employees only when no damage occurred to the components of the cage as a result of the static drop tests.

11. Safety Clamps

(a) *Fit to the guide ropes.* The applicants must/would:

(i) Fit appropriately designed and constructed safety clamps to the guide ropes; and

(ii) Ensure that the safety clamps do not damage the guide ropes when in use.

(b) *Attach to the personnel cage.* The applicants must/would attach safety clamps to each personnel cage for gripping the guide ropes.

(c) *Operation.* The applicants must/would ensure that the safety clamps attached to the personnel cage:

(i) Operate on the ''broken rope principle'' defined in section 3 (''Definitions'') of ANSI standard A10.22–1990 (R1998);

(ii) Be capable of stopping and holding a personnel cage that is carrying 100 percent of its maximum rated load and traveling at its maximum allowable speed if the hoist rope breaks at the footblock; and

(iii) Use a pre-determined and pre-set clamping force (i.e., the ''spring compression force'') for each hoist system.

(d) *Maintenance.* The applicants must/would keep the safety-clamp assemblies clean and functional at all times.

12. Overhead Protection

(a) The applicants must/would install a canopy or shield over the top of the personnel cage that is made of steel plate at least three-sixteenth (3/16) of an inch (4.763 mm) thick, or material of equivalent strength and impact resistance, to protect employees (i.e., both inside and outside the chimney) from material and debris that may fall from above.

(b) The applicants must/would ensure that the canopy or shield slopes to the outside of the personnel cage.[8]

13. Emergency-Escape Device

(a) *Location.* The applicants must/would provide an emergency-escape device in at least one of the following locations:

(i) In the personnel cage, provided that the device is long enough to reach the bottom landing from the highest possible escape point; or

(ii) At the bottom landing, provided that a means is available in the personnel cage for the occupants to raise the device to the highest possible escape point.

(b) *Operating instructions.* The applicants must/would ensure that written instructions for operating the emergency-escape device are attached to the device.

(c) *Training.* The applicants must/would instruct each employee who uses a personnel cage for transportation on how to operate the emergency-escape device:

(i) Before the employee uses a personnel cage for transportation; and

(ii) Periodically, and as necessary, thereafter.

14. Personnel Platforms and Fall-Protection Equipment

(a) *Personnel platforms.* When the applicants elect to replace the personnel cage with a personnel platform in accordance with Condition 2(a) above, they must/would:

(i) Ensure that an enclosure surrounds the platform, and that this enclosure is at least 42 inches (106.7 cm) above the platform's floor;

(ii) Provide overhead protection when an overhead hazard is, or could be, present; and

(iii) Comply with the applicable scaffolding strength requirements specified by 29 CFR 1926.451(a)(1).

(b) *Fall-protection equipment.* Before employees use work platforms or boatswains' chairs, the applicants must/would:

(i) Equip the employees with, and ensure that they use, full-body harnesses, lanyards, and lifelines as specified by 29 CFR 1926.104 and the applicable requirements of 29 CFR 1926.502(d); and

(ii) Ensure that employees secure the lifelines to the top of the chimney and to a weight at the bottom of the chimney, and that the employees' lanyards are attached to the lifeline during the entire period of vertical transit.

15. Inspections, Tests, and Accident Prevention

(a) The applicants must/would:

(i) Conduct inspections of the hoist system as required by 29 CFR 1926.20(b)(2);

(ii) Ensure that a competent person conducts daily visual inspections of the hoist system; and

(iii) Inspect and test the hoist system as specified by 29 CFR 1926.552(c)(15).

(b) The applicants must/would comply with the accident-prevention requirements of 29 CFR 1926.20(b)(3).

16. Welding

(a) The applicants must/would ensure that only qualified welders weld components of the hoisting system.

(b) The applicants must/would ensure that the qualified welders:

(i) Are familiar with the weld grades, types, and materials specified in the design of the system; and

(ii) Perform the welding tasks in accordance with 29 CFR part 1926, subpart J (''Welding and Cutting'').

VII. Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC directed the preparation of this notice. This notice is issued under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 5–2002 (67 FR 65008), and 29 CFR part 1905.

Signed at Washington, DC, on February 2, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. E7–2046 Filed 2–7–07; 8:45 am]

BILLING CODE 4510–26–P

[8] Paragraphs (a) and (b) were adapted from OSHA's Underground Construction Standard (29 CFR 1926.800(t)(4)(iv)).

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2007–1]

Cable Compulsory License: Specialty Station List

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for information.

SUMMARY: The Copyright Office is compiling a new specialty station list to

identify commercial television broadcast stations which, according to their owners, qualify as specialty stations for purposes of the former distant signal carriage rules of the Federal Communications Commission (FCC). The list has been periodically updated to reflect an accurate listing of specialty stations. To that end, the Copyright Office is again requesting all interested owners of television broadcast stations that qualify as specialty stations, including those that previously filed affidavits, to submit sworn affidavits to the Copyright Office stating that the programming of their stations meets the requirements specified under the FCC regulations in effect on June 24, 1981.

DATES: Affidavits should be received on or before April 9, 2007.

ADDRESSES: If hand delivered by a private party, the sworn affidavit should be brought to Library of Congress, U.S. Copyright Office, 2221 S. Clark Street, 11th Floor, Arlington, VA 22202, between 8:30 a.m. and 5 p.m. The material should be addressed as follows: Office of the General Counsel, U.S. Copyright Office.

If delivered by a commercial courier, the sworn affidavit must be delivered to the Congressional Courier Acceptance Site (''CCAS'') located at 2nd and D Streets, NE, Washington, DC between 8:30 a.m. and 4 p.m. The material should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM–401, James Madison Building, 101 Independence Avenue, SE, Washington, DC. Please note that CCAS will not accept delivery by means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), the sworn affidavit should be addressed to U.S. Copyright Office, Copyright I&R/GC, P.O. Box 70400, Southwest Station, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Tanya M. Sandros, Acting General Counsel, P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

What is a Specialty Station?

The FCC regulations in effect on June 24, 1981, defined a specialty station as ''a commercial television broadcast station that generally carries foreign–language, religious, and/or automated programming in one–third of the hours of an average broadcast week and one–third of the weekly prime–time hours.'' 47 CFR 76.5(kk) (1981).

How is a Station Deemed To Be a Specialty Station?[1]

Under a procedure adopted by the Copyright Office in 1989, *see* 54 FR 38461 (September 18, 1989), an owner or licensee of a broadcast station files a sworn affidavit attesting that the station's programming comports with the 1981 FCC definition, and hence, qualifies as a specialty station. A list of the stations filing affidavits is then published in the **Federal Register** in order to allow any interested party to file an objection to an owner's claim of specialty station status for the listed station. Once the period to file objections closes, the Office publishes a final list which includes references to the specific objections filed against a particular station owner's claim. In addition, affidavits that are submitted after the close of the filing period are accepted and kept on file at the Copyright Office.

The staff of the Copyright Office, however, does not verify the specialty station status of any station listed in an affidavit.

Why Would a Broadcast Station Seek Specialty Station Status?

Specialty station status is significant in the administration of the cable compulsory license. 17 U.S.C. 111. The licensing system indirectly allows a cable operator to carry the signal of a television station classified as a specialty station at the base rate for ''permitted''' signals. *See* 49 FR 14944 (April 16, 1984); 37 CFR 256.2(c).

How Does the Staff of the Copyright Office Use the List?

Copyright Office licensing examiners refer to the final annotated list in examining a statement of account in the case where a cable system operator claims that a particular station is a specialty station. If a cable system operator claims specialty station status for a station not on the final list, its classification as a specialty station will be questioned unless the examiner determines that the owner of the station has filed an affidavit since publication of the list.

[1]Originally, the FCC identified whether a station qualified as a specialty station, but after it deleted its distant signal carriage rules, it discontinued this practice. *See* Malrite T.V. of New York v. FCC, 652 F2d 1140 (2d Cir. 1981), *cert. denied*, 454 U.S. 1143 (1982).

How Often Has the Copyright Office Published Specialty Station Lists?

The Copyright Office compiled and published its first specialty station list in 1990, together with an announcement of its intention to update the list approximately every three years in order to maintain as current a list as possible. 55 FR 40021 (October 1, 1990). Its second list was published in 1995. 60 FR 34303 (June 30, 1995). Its third list was published in 1998. 63 FR 67703 (December 8, 1998). With this notice, the Copyright Office is initiating the procedure for the compilation and publication of the fourth specialty station list.

Does This Notice Require Action on the Part of an Owner of a Television Broadcast Station?

Yes, we are requesting that the owner, or a valid agent of the owner, of any eligible television broadcast station submit an affidavit to the Copyright Office stating that he or she believes that the station qualifies as a specialty station under 47 CFR 76.5(kk) (1981), the FCC's former rule defining ''specialty station.'' The affidavit must be certified by the owner or an official representing the owner.

Affidavits are due within 60 days of the publication of this notice in the **Federal Register**. There is no specific format for the affidavit; however, the affidavit must confirm that the station owner believes that the station qualifies as a specialty station under the 1981 FCC rule.

Notwithstanding the above, any affidavit submitted to the Copyright Office within the 45–day period prior to publication of this notice need not be resubmitted to the Office. Any affidavit filed during this 45–day period shall be considered timely filed for purposes of this notice.

What Happens After the Affidavits Are Filed With the Copyright Office?

Once the period for filing the affidavits closes, the Office will compile and publish in the **Federal Register** a list of the stations identified in the affidavits. At the same time, it will solicit comment from any interested party as to whether or not particular stations on the list qualify as specialty stations. Thereafter, a final list of the specialty stations that includes references to any objections filed to a station's claim will be published in the **Federal Register**.

In addition, affidavits that, for good cause shown, are submitted after the close of the filing period will be accepted and kept on file at the

Copyright Office. Affidavits received in this manner will be accepted with the understanding that the owners of those stations will resubmit affidavits when the Office next formally updates the specialty station list. An interested party may file an objection to any late–filed affidavit. Such objections shall be kept on file in the Copyright Office together with the corresponding affidavit.

February 2, 2007

Marybeth Peters,

Register of Copyrights.

[FR Doc. E7–2104 Filed 2–7–06; 8:45 am]

BILLING CODE 1410–30–S

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Extension of a Currently Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until April 9, 2007.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Corporate Credit Union Monthly Call Report.

OMB Number: 3133–0067.

Form Number: NCUA 5310.

Type of Review: Recordkeeping, reporting and monthly.

Description: NCUA utilizes the information to monitor financial conditions in corporate credit unions, and to allocate supervision and examination resources.

Respondents: Corporate credit unions, or ''banker's banks'' for natural person credit unions.

Estimated No. of Respondents/Record keepers: 30.

Estimated Burden Hours per Response: 2 hours.

Frequency of Response: Monthly.

Estimated Total Annual Burden Hours: 720 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on February 5, 2007.

Mary Rupp,

Secretary of the Board.

[FR Doc. E7–2096 Filed 2–7–07; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Final Regulatory Guide: Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued a revision to an existing guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Like its predecessor, Revision 1 of Regulatory Guide 1.196, ''Control Room Habitability at Light-Water Nuclear Power Reactors,'' provides guidance and criteria that the staff of the U.S. Nuclear Regulatory Commission (NRC) considers acceptable for implementing the agency's regulations in Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to Title 10, Part 50, of the *Code of Federal Regulations* (10 CFR part 50), ''Domestic Licensing of Production and Utilization Facilities,'' as they relate to control room habitability (CRH). Specifically, this guide outlines a process that licensees may apply to control rooms that are modified, are newly designed, or must have their conformance to the regulations reconfirmed.

In Appendix A to 10 CFR Part 50, General Design Criteria (GDC) 1, 3, 4, 5, and 19 apply to CRH, as follows:

- GDC 1, ''Quality Standards and Records,'' requires that structures, systems, and components (SSCs) important to safety be designed, fabricated, erected, and tested to quality standards commensurate with the importance of the safety functions performed.
- GDC 3, ''Fire Protection,'' requires that SSCs important to safety be designed and located to minimize the effects of fires and explosions.
- GDC 4, ''Environmental and Dynamic Effects Design Bases,'' requires SSCs important to safety to be designed to accommodate the effects of, and to be compatible with, the environmental conditions associated with normal operation, maintenance, testing, and postulated accidents, including loss-of-coolant accidents (LOCAs).
- GDC 5, ''Sharing of Structures, Systems, and Components,'' requires that SSCs important to safety not be shared among nuclear power units unless it can be shown that such sharing will not significantly impair their ability to perform their safety functions, including, in the event of an accident in one unit, the orderly shutdown and cooldown of the remaining units.
- GDC 19, ''Control Room,'' requires that a control room be provided from which actions can be taken to operate the nuclear reactor safely under normal conditions and to maintain the reactor in a safe condition under accident conditions, including a LOCA. Adequate radiation protection is to be provided to permit access and occupancy of the control room under accident conditions without personnel receiving radiation exposures in excess of specified values.

Since the NRC initially issued Regulatory Guide 1.196 in May 2003, the staff determined that the information presented in Appendix B to that guide did not accurately represent a viable technical specification for CRH at light-water nuclear power reactors. In particular, it referred to failure of a particular surveillance as a plant state, rather than having the results of the surveillance factor into the operability determination. In addition, it did not provide for a definite time to restore functionality to the control room envelope, whereas all improved standard technical specifications (iSTS) contain such provisions. Moreover, Appendix B was included as a ''strawman,'' to be deleted when details had been more carefully worked out with industry participation, and those technical specifications placed in the iSTS with all other acceptable technical specifications.

As of the publication date of this Revision 1 of Regulatory Guide 1.196, no utility has been granted the technical specification changes represented by

Appendix B to the original version of this guide. Consequently, the NRC staff elected to remove Appendix B (and all related references) from this revision. Removal of Appendix B from this revised guide does not require any stakeholder to take any action and does not reduce safety in any way. Moreover, public meetings with the owners' group Technical Specification Task Force have provided ample opportunity for public comment regarding this revision. Therefore, the staff views the removal of Appendix B as a neutral action, for which further public comments are unnecessary. For that reason, the staff chose not to issue this revision as a draft guide for public comment before publishing this Revision 1 of Regulatory Guide 1.196. Nonetheless, the NRC staff encourages and welcomes comments and suggestions in connection with improvements to published regulatory guides, as well as items for inclusion in regulatory guides that are currently being developed. You may submit comments by any of the following methods.

Mail comments to: Rulemaking, Directives and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand-deliver comments to: Rulemaking, Directives and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Fax comments to: Rulemaking, Directives and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415–5144.

Requests for technical information about Revision 1 of Regulatory Guide 1.196 may be directed to Harold Walker, at (301) 415–2827 or *HXW@nrc.gov.*

Regulatory guides are available for inspection or downloading through the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/reg-guides/.* In addition, Revision 1 of Regulatory Guide 1.196 is available for inspection or downloading through ADAMS at *http://www.nrc.gov/reading-rm/adams.html,* under Accession #ML063560144.

Revision 1 of Regulatory Guide 1.196 and other related publicly available documents can also be viewed electronically on computers in the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's reproduction contractor will make copies of documents for a fee. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov.*

Please note that the NRC does not intend to distribute printed copies of Revision 1 of Regulatory Guide 1.196, unless specifically requested on an individual basis with adequate justification. Such requests for single copies of draft or final guides (which may be reproduced) should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section; by e-mail to *DISTRIBUTION@nrc.gov;* or by fax to (301) 415–2289. Telephone requests cannot be accommodated.

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(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 23rd day of January, 2007.

For the U.S. Nuclear Regulatory Commission.

Brian W. Sheron,

Director, Office of Nuclear Regulatory Research.

[FR Doc. E7–2088 Filed 2–7–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Final Regulatory Guide: Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued a revision to an existing guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 1.200, ''An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities,'' describes one acceptable approach for determining whether the quality of a probabilistic risk assessment (PRA), in total or the parts that are used to support an application, is sufficient to provide confidence in the results, such that the PRA can be used in regulatory decision-making for light-water reactors. Specifically, Revision 1 of Regulatory Guide 1.200 provides guidance in four areas:

(1) A minimal set of requirements of a technically acceptable PRA.

(2) The NRC's position on PRA consensus standards and industry PRA program documents.

(3) Demonstration that the PRA (in total or specific parts) used in regulatory applications is of sufficient technical adequacy.

(4) Documentation to support a regulatory submittal.

This guidance is intended to be consistent with the NRC's PRA Policy Statement, entitled ''Use of Probabilistic Risk Assessment Methods in Nuclear Activities: Final Policy Statement,'' which the NRC published in the **Federal Register** on August 16, 1995 (60 FR 42622) to encourage use of PRA in all regulatory matters. That Policy Statement states that ''* * * the use of PRA technology should be increased to the extent supported by the state-of-the-art in PRA methods and data and in a manner that complements the NRC's deterministic approach.''

Since that time, many uses have been implemented or undertaken, including modification of the NRC's reactor safety inspection program and initiation of work to modify reactor safety regulations. Consequently, confidence in the information derived from a PRA is an important issue, in that the accuracy of the technical content must be sufficient to justify the specific results and insights that are used to support the decision under consideration.

Revision 1 of Regulatory Guide 1.200 is also intended to be consistent with the more detailed guidance in Regulatory Guide 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' which the NRC issued in November 2002. In addition, Revision 1 of Regulatory Guide 1.200 is intended to reflect and endorse (with certain objections) the following guidance provided by the American Society of Mechanical Engineers (ASME) and the Nuclear Energy Institute (NEI):

- ASME RA–S–2002, ''Standard for Probabilistic Risk Assessment for Nuclear Power Plant Applications,'' dated April 5, 2002.
- ASME RA–Sa7–2003, ''Standard for Probabilistic Risk Assessment for Nuclear Power Plant Applications,'' Addendum A to ASME RA–S–2002, dated December 5, 2003.
- ASME RA–Sb–2005, ''Standard for Probabilistic Risk Assessment for Nuclear Power Plant Applications,''

Addendum B to ASME RA–S–2002, dated December 30, 2005.

• NEI–00–02, ''Probabilistic Risk Assessment Peer Review Process Guidance,'' Revision A3, dated March 20, 2000, with its supplemental guidance on industry self-assessment, dated August 16, 2002, Revision 1, dated May 19, 2006, and an update to Revision 1 dated November 15, 2006.

• NEI–05–04, ''Process for Performing Follow-on PRA Peer Reviews Using the ASME PRA Standard,'' dated January 2005.

When used in support of an application, this regulatory guide will obviate the need for an in-depth review of the base PRA by NRC reviewers, allowing them to focus their review on key assumptions and areas identified by peer reviewers as being of concern and relevant to the application. Consequently, this guide will provide for a more focused and consistent review process. In this regulatory guide, as in Regulatory Guide 1.174, the quality of a PRA analysis used to support an application is measured in terms of its appropriateness with respect to scope, level of detail, and technical acceptability.

This regulatory guide was issued for trial use in February of 2004, and five trial applications were conducted. The staff subsequently revised Regulatory Guide 1.200 to incorporate the lessons learned from those pilot applications. The NRC solicited public comment on this guidance by publishing a **Federal Register** notice (71 FR 54530) concerning Draft Regulatory Guide DG–1161. The public comment period closed on October 14, 2006, and the staff has considered and appropriately addressed all comments received. The staff's responses to all comments received are available in the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html,* under Accession #ML070040474.

The NRC staff encourages and welcomes comments and suggestions in connection with improvements to published regulatory guides, as well as items for inclusion in regulatory guides that are currently being developed. You may submit comments by any of the following methods.

Mail comments to: Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand-deliver comments to: Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Fax comments to: Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415–5144.

Requests for technical information about Regulatory Guide 1.200 may be directed to Ms. Mary T. Drouin, at (301) 415–6675 or *MXD@nrc.gov.*

Regulatory guides are available for inspection or downloading through the NRC's public Web site in the Regulatory Guides document collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/.* Regulatory Guide 1.200 is also available for inspection or downloading through the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html,* under Accession #ML070240001.

In addition, Revision 1 of Regulatory Guide 1.200 and other related publicly available documents, including public comments received, can be viewed electronically on computers in the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will make copies of documents for a fee. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov.*

Please note that the NRC does not intend to distribute printed copies of Revision 1 of Regulatory Guide 1.200, unless specifically requested on an individual basis with adequate justification. Such requests for single copies (which may be reproduced) should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section; by e-mail to *DISTRIBUTION@nrc.gov;* or by fax to (301) 415–2289. Telephone requests cannot be accommodated.

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(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 26th day of January, 2007.

For the U.S. Nuclear Regulatory Commission.

Brian W. Sheron,

Director, Office of Nuclear Regulatory Research.

[FR Doc. E7–2089 Filed 2–7–07; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium for Premium Payment Years Beginning in January 2007

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rate assumption.

SUMMARY: This notice informs the public of the interest rate assumption to be used for determining the variable-rate premium under the Pension Benefit Guaranty Corporation's regulation on premium rates, for premium payment years beginning in January 2007. This notice revises a previously-published notice to reflect the recent publication by the Internal Revenue Service of updated mortality tables. This interest rate assumption can be derived from rates published elsewhere, but is published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate assumption for determining the variable-rate premium under part 4006 applies to premium payment years beginning in January 2007.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium.

On February 2, 2007 (at 72 FR 4955), the Internal Revenue Service (IRS) published final regulations containing updated mortality tables for determining current liability under section 412(l)(7)

of the Code and section 302(d)(7) of ERISA for plan years beginning on or after January 1, 2007. As a result, in accordance with section 4006(a)(3)(E)(iii)(II) of ERISA, the required interest rate for plan years beginning on or after January 1, 2007, is 100 percent of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid (premium payment year).

On January 12, 2007 (at 72 FR 1564), the Pension Benefit Guaranty Corporation (PBGC) published a notice informing the public of the interest rate assumption to be used for determining variable-rate premiums for premium payment years beginning in January 2007. In light of IRS's publication of the updated mortality tables, that required interest rate assumption has changed.

The required interest rate to be used for determining variable-rate premiums for premium payment years beginning in January 2007 is 5.75 percent (i.e., 100 percent of the 5.75 percent composite corporate bond rate for December 2006).

PBGC will post the revised required interest rate on its Web site (*http://www.pbgc.gov*).

Issued in Washington, DC, on this 5th day of February 2007.

Vincent K. Snowbarger,

Interim Director, Pension Benefit Guaranty Corporation.

[FR Doc. E7–2087 Filed 2–7–07; 8:45 am]

BILLING CODE 7709–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 10b–10, SEC File No. 270–389, OMB Control No. 3235–0444.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 10b–10; Confirmation of Transactions.

Rule 10b–10 (17 CFR 240.10b–10) of the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) requires broker-dealers to convey basic trade information to customers regarding their securities transactions. This information includes: the date and time of the transaction, the identity and number of shares bought or sold, and the trading capacity of the broker-dealer. Depending on the trading capacity of the broker-dealer, the Rule requires the disclosure of commissions as well as mark-up and mark-down information. For transactions in debt securities, the Rule requires the disclosure of redemption and yield information. The Rule potentially applies to all of the approximately 6,014 firms registered with the Commission that affect transactions on behalf of customers.

The confirmations required by Rule 10b–10 are generally processed through automated systems. It takes approximately 1 minute to generate and send a confirmation. It is estimated that broker-dealers spend 77.4 million hours per year complying with Rule 10b–10.

The Commission staff estimates the costs of producing and sending a paper confirmation, including postage, to be approximately 91 cents. The Commission staff also estimates that the cost of producing and sending a wholly electronic confirmation is approximately 52 cents. The amount of confirmations sent and the cost of sending each confirmation varies from firm to firm. Smaller firms generally send fewer confirmations than larger firms because they affect fewer transactions.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 60 days of this notice.

Dated: January 31, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–2086 Filed 2–7–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27695; File No. 812–13325]

Country Investors Life Assurance Company, et al.

February 2, 2007.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'' or ''Act''), approving certain substitutions of securities.

APPLICANTS: COUNTRY Investors Life Assurance Company (the ''Company''), COUNTRY Investors Variable Life Account (the ''Life Account'') and COUNTRY Investors Variable Annuity Account (the ''Annuity Account'') (together, the ''Applicants'')

SUMMARY: Applicants seek an order pursuant to Section 26(c) of the 1940 Act approving the substitution of: (1) Shares of the EquiTrust High Grade Bond Portfolio (''Replacement Portfolio A'') of the EquiTrust Variable Insurance Series Fund (the ''EquiTrust Fund'') for shares of the COUNTRY VP Short-Term Bond Fund (''Replaced Portfolio A'') of the COUNTRY Mutual Funds Trust (the ''COUNTRY Fund''); and (2) shares of the T. Rowe Price Personal Strategy Balanced Portfolio (''Replacement Portfolio B'') of the T. Rowe Price Equity Series, Inc. (the ''T. Rowe Price Fund'') for shares of the COUNTRY VP Balanced Fund (''Replaced Portfolio B'') of the COUNTRY Fund. Shares of Replacement Portfolio A, Replacement Portfolio B, Replaced Portfolio A, and Replaced Portfolio B currently are held by the Life Account and the Annuity Account (each an ''Account,'' together, the ''Accounts'') to support variable life insurance or variable annuity contracts, respectively, issued by the Company (collectively, the ''Contracts'').

FILING DATE: The Application was filed on September 5, 2006 and amended and restated on January 24, 2007.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be

issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on February 27, 2007, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, c/o Virginia L. Eves, Esq., General Attorney, Country Investors Life Assurance Company, 1701 N. Towanda Avenue, Bloomington, IL 61702–2901. Copy to Thomas E. Bisset, Esq., Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW., Washington, DC 20004–2415.

FOR FURTHER INFORMATION CONTACT: Alison T. White, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. The Company is a stock life insurance company organized under Illinois law in 1981. The Company is principally engaged in the offering of life insurance policies and annuity contracts, and is admitted to do business in 41 states. For purposes of the Act, the Company is the depositor and sponsor of each of the Accounts, as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

2. Under the insurance law of Illinois, the assets of each Account attributable to the Contracts issued through that Account are owned by the Company, but are held separately from the other assets of the Company for the benefit of the owners of, and the persons entitled to payment under, those Contracts. Each Account is a ''separate account'' as defined by Rule 0–1(e) under the Act. Each Account is registered with the Commission as a unit investment trust (File No. 811–21394 (the Life Account); File No. 811–21330 (the Annuity Account)). Each Account is comprised of a number of subaccounts and each subaccount invests exclusively in one of the insurance dedicated mutual fund portfolios made available as investment options underlying the Contracts.

3. The Life Account is currently divided into 36 subaccounts. The assets of the Life Account support variable life insurance contracts, and interests in the Account offered through such contracts have been registered under the Securities Act of 1933, as amended (the ''1933 Act'') on Form N–6 (File No. 333–106757).

4. The Annuity Account is currently divided into 36 subaccounts. The assets of the Annuity Account support variable annuity contracts, and interests in the Account offered through such contracts have been registered under the 1933 Act on Form N–4 (File No. 333–104424).

5. The Contracts are flexible premium variable life insurance and variable annuity contracts. The variable life insurance Contracts provide for the accumulation of values on a variable basis, a fixed basis, or a combination of both, throughout the insured's life, and for a death benefit upon the death of the insured. The variable annuity Contracts provide for the accumulation of values on a variable basis, a fixed basis, or a combination of both, during the accumulation period, and provide settlement or annuity payment options on a variable basis, a fixed basis, or a combination of both, during the income period. Under each of the Contracts, the Company reserves the right to substitute shares of one underlying fund for shares of another, or of another investment portfolio, including a portfolio of a different management investment company.

6. For as long as a variable life insurance Contract remains in force or a variable annuity Contract remains in force and has not yet been annuitized, a Contract owner may transfer all or any part of the Contract value from one subaccount to any other subaccount without limit, although certain restrictions apply to transfers to and from the fixed account interest investment option under the Contract funded by the Company's general account (the ''Declared Interest Option''). The Company reserves the right to revoke or modify the transfer privilege to discourage excessive trading by Contract owners or to prevent transfers that may have a detrimental effect upon Contract owners, subaccount unit values, the insurance dedicated mutual fund portfolios underlying the subaccounts or the Declared Interest Option. The Contracts reserve to the Company the right to assess a charge of $25 for transfers in excess of twelve per Contract year.

7. The COUNTRY Fund is organized as a Delaware business trust and registered as an open-end management investment company under the Act (File No. 811–10475). The COUNTRY Fund currently offers 9 separate investment portfolios (each, a ''Portfolio''), two of which would be involved in the proposed substitutions. The COUNTRY Fund issues a separate series of shares of beneficial interest in connection with each Portfolio and has registered such shares under the 1933 Act on Form N–1A (File No. 33–68270). COUNTRY Trust Bank (''COUNTRY Advisor'') serves as the investment adviser to each Portfolio, including both Replaced Portfolio A and Replaced Portfolio B.

8. The EquiTrust Fund is an open-end diversified management investment company registered under the Act (File No. 811–5069) consisting of six portfolios, each with its own investment objective(s), investment policies, restrictions, and attendant risks. One of those portfolios, the EquiTrust High Grade Bond Portfolio, is involved in the proposed substitution. The EquiTrust Fund issues a separate series of shares of beneficial interest in connection with each of those portfolios, and has registered such shares under the 1933 Act on Form N–1A (File No. 33–12791). EquiTrust Investment Management Services, Inc. is the investment adviser and manager to the EquiTrust Fund portfolios. Neither the EquiTrust Fund nor any of its portfolios is affiliated with the Applicants.

9. The T. Rowe Price Fund is a Maryland corporation that is registered as an open-end management investment company under the Act (File No. 811–07143) and currently offers seven investment portfolios, one of which—the T. Rowe Price Personal Strategy Balanced Portfolio—is involved in the proposed substitution. The T. Rowe Price Fund issues a series of shares of beneficial interest in connection with each portfolio, and has registered such shares under the 1933 Act on Form N–1A (File No. 33–52161). T. Rowe Price Associates, Inc., based in Baltimore, Maryland, acts as investment adviser to the T. Rowe Price Personal Strategy Balanced Portfolio. Neither the T. Rowe Price Fund nor any of its portfolios is affiliated with the Applicants.

10. The investment objectives of each Replaced Portfolio and Replacement Portfolio are as follows:

a. *Replaced Portfolio A and Replacement Portfolio A:* The Country VP Short-Term Bond Fund seeks to achieve a high level of current income

consistent with preservation of capital and maintenance of liquidity. The EquiTrust High Grade Bond Portfolio seeks to generate as high a level of current income as is consistent with investment in a diversified portfolio of high-grade income-bearing debt securities.

b. *Replaced Portfolio B and Replacement Portfolio B:* The Country VP Balanced Fund seeks growth of capital and current income. The T. Rowe Price Strategy Balanced Portfolio seeks the highest total return over time consistent with emphasis on both capital appreciation and income.

11. The advisory fees, other expenses and total operating expenses (before and after any contractual waivers and reimbursements) for the year ended December 31, 2005, expressed as an annual percentage of average daily net assets, of the Replaced Portfolios and the Replacement Portfolios are as follows:

	Replaced Portfolio A	Replacement Portfolio A
	Country VP Short-Term Bond Fund (Percent)	EquiTrust High Grade Bond Portfolio (Percent)
Advisory Fees	.50	.30
Other Expenses	.75	.15
Total Operating Expenses	1.25	.45
Less Contractual Fee Waivers and Expense Reimbursements	(.55)	N/A
Net Operating Expenses	.70	.45

	Replaced Portfolio B	Replacement Portfolio B
	Country VP Balanced Fund (Percent)	T. Rowe Price Personal Strategy Balanced Portfolio (Percent)
Advisory Fees	.75	[1] .90
Other Expenses	.79	.00
Total Operating Expenses	1.54	.90
Less Contractual Fee Waivers and Expense Reimbursements	(.64)	N/A
Net Operating Expenses	.90	.90

[1] Unified fee.

12. The investment performance of each Replacement Portfolio compares favorably to the investment performance of the corresponding Replaced Portfolio. For each of the last three fiscal years, the life of each Replaced Portfolio, the investment performance of each Replacement Portfolio has significantly exceeded the investment performance of the corresponding Replaced Portfolio. In addition, each Replacement Portfolio has a longer history of investment performance than that of the corresponding Replaced Portfolio.

13. Currently, under each Contract 36 different variable investment options are available for investment. Following the proposed substitution of shares of each Replacement Portfolio for shares of the corresponding Replaced Portfolio, 34 different variable investment options will be available under each Contract.

14. For those Contracts that are in force on the date of the proposed substitutions, the Company will take the following action during the twenty-four months following the date of the proposed substitutions. On the last day of each fiscal period (not to exceed a fiscal quarter), the Company will reimburse the Contract owners investing in the Replacement Portfolios to the extent that the sum of the operating expenses of the Replacement Portfolio (taking into account any fee waivers and expense reimbursements) and subaccount expenses for such period exceed, on an annualized basis, the sum of the operating expenses of the corresponding Replaced Portfolio (taking into account any fee waivers and expense reimbursements) and subaccount expenses for the fiscal year preceding the date of the proposed substitution. In addition, for twenty-four months following the proposed substitutions, the Company will not increase asset-based fees or charges for Contracts outstanding on the date of the proposed substitutions.

15. The Board of Trustees of the COUNTRY Fund voted to close the Replaced Portfolios to new investment as of July 31, 2006, and to liquidate both Replaced Portfolios on or before August 31, 2007, the Liquidation Date. In turn, Replaced Portfolio A and Replaced Portfolio B are no longer available for new investment under the Contracts (allocation of Contract value) as of July 31, 2006 (the ''Closing Date'') and will be discontinued altogether under the Contracts on a date no later than the Liquidation Date.

16. Accumulated Contract value invested in the COUNTRY VP Short-Term Bond Fund and the COUNTRY VP Balanced Fund will automatically be transferred to the EquiTrust High Grade Bond Fund and the T. Rowe Price Personnel Strategy Balanced Fund, respectively, as of a date determined by the Company following receipt of a Commission order granting substitution relief (the ''Substitution''). Contract owners will receive advance notice of the date of the Substitution (the ''Substitution Date'').

17. By supplements dated July 6, 2006 (collectively, the ''2006 Supplements'') to the prospectuses for the registration statements of the Accounts, the Company notified owners of the Contracts of its intention to take the necessary actions, including seeking an order requested to carry out the proposed substitutions.

18. The 2006 Supplements advised Contract owners that accumulated Contract value may continue to remain in the Replaced Portfolios after the

Closing Date until the Substitution Date. After the Closing Date, Contract owners will not be able to allocate Contract value to the Replaced Portfolios from the alternative investment options available under the Contract.

19. From the date of the 2006 Supplements, Contract owners may transfer accumulated Contract value invested in the Replaced Portfolios to the other investment options available under the Contract free of charge and without such transfers counting against the number of free transfers allowed each Contract Year. For 30 days following the Substitution Date, Contract owners whose accumulated Contract value was invested in the Replaced Portfolios as of the Substitution Date and subsequently invested in the Replacement Portfolios as a result of the Substitution may transfer that accumulated Contract value from the Replacement Portfolios to the alternative investment options available under the Contract free of charge and without such transfers counting against the number of free transfers. Although the Company has no present intention to increase the charge for transfers under the Contract, the Company will not exercise any rights reserved by it under the Contract to impose additional charges for transfers until at least 30 days after the Substitution Date.

20. Further, all Contract owners invested in a Replaced Portfolio will have received the most recent corresponding Replacement Portfolio prospectus prior to the Substitution Date.

21. Within five days after the proposed substitutions, Contract owners who are affected by the substitutions will be sent a written notice informing them that the substitutions were carried out. The notice also will reiterate the facts that: (a) For at least 30 days after the Substitution Date, the Company will not exercise any rights reserved by it under the Contract to impose additional charges for transfers; and (b) for 30 days following the proposed substitutions, Contract owners may transfer accumulated Contract value invested in the Replacement Portfolios as a result of the Substitution out of the Replacement Portfolios and into the alternative investment options available under the Contracts free of charge and without such transfers counting against the number of free transfers allowed each Contract Year.

22. The Company will carry out the proposed substitutions by redeeming shares of each Replaced Portfolio held by the Accounts for cash and applying the proceeds to the purchase of shares of the corresponding Replacement Portfolio. Redemption requests and purchase orders will be placed simultaneously so that Contract values will remain fully invested at all times. All redemptions of shares of the Replaced Portfolios and purchases of shares of the Replacement Portfolios will be effected in accordance with Rule 22c–1 of the Act.

23. The proposed substitutions will take place at relative net asset value and will not result in a change in the amount of any Contract owner's accumulated Contract value or death benefit, or in the dollar value of his or her investment in any of the Accounts. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or the Company's obligations under the Contracts be altered in any way. All applicable expenses incurred in connection with the proposed substitutions, including brokerage commissions and legal, accounting, and other fees and expenses, will be paid by the Company. In addition, the proposed substitutions will not result in adverse tax consequences for, and will not alter, the tax benefits to Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions.

Conclusion

For the reasons and upon the facts set forth above, Applicants submit that the requested order meets the standards set forth in Section 26(c). Applicants request an order of the Commission, pursuant to Section 26(c) of the Act, approving the Substitutions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 07–554 Filed 2–7–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55207, File No. 4–518]

Joint Industry Plan; Order Approving Amendment To Add the International Securities Exchange, LLC as Participant to National Market System Plan Establishing Procedures Under Rule 605 of Regulation NMS

January 31, 2007.

I. Introduction

On September 14, 2006, the International Securities Exchange, LLC (''ISE'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') in accordance with Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 of Regulation NMS,[2] a proposed amendment to the national market system plan establishing procedures under Rule 605 of Regulation NMS (''Joint-SRO Plan'' or ''Plan'').[3] Under the proposed amendment, ISE would be added as a participant to the Joint-SRO Plan. Notice of filing and an order granting temporary effectiveness of the proposal through January 30, 2007 was published in the **Federal Register** on October 2, 2006.[4] The Commission did not receive any comments on the proposed amendment. This order approves the amendment on a permanent basis.

II. Discussion

The Joint-SRO Plan establishes procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS, available to the public in a uniform, readily accessible, and usable electronic format. The current participants to the Joint-SRO Plan are the American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc. (n/k/a National Stock Exchange℠), The NASDAQ Stock Market LLC, National Association of Securities Dealers, Inc., New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC), Pacific

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] 17 CFR 242.605. On April 12, 2001, the Commission approved a national market system plan for the purpose of establishing procedures for market centers to follow in making their monthly reports available to the public under Rule 11Ac1–5 under the Act (n/k/a Rule 605 of Regulation NMS). *See* Securities Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814 (April 17, 2001).

[4] *See* Securities Exchange Act Release No. 54510 (September 26, 2006), 71 FR 58018.

Exchange, Inc. (n/k/a NYSE Arca, Inc.), and Philadelphia Stock Exchange, Inc. The proposed amendment would add ISE as a participant to the Joint-SRO Plan.

Section III(b) of the Joint-SRO Plan provides that a national securities exchange or national securities association may become a party to the Plan by: (i) Executing a copy of the Plan, as then in effect (with the only changes being the addition of the new participant's name in Section II(a) of the Plan and the new participant's single-digit code in Section VI(a)(1) of the Plan) and (ii) submitting such executed plan to the Commission for approval. ISE submitted a signed copy of the Joint-SRO Plan to the Commission in accordance with the procedures set forth in the Plan regarding new participants.

The Commission finds that the amendment to the Joint-SRO Plan is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment is consistent with the requirements of Section 11A of the Act,[5] and Rule 608 of Regulation NMS.[6] The Plan established appropriate procedures for market centers to follow in making their monthly reports required pursuant to Rule 605 of Regulation NMS available to the public in a uniform, readily accessible, and usable electronic format. The amendment to include ISE as a participant in the Joint-SRO Plan should contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system by facilitating the uniform public disclosure of order execution information by all market centers. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow ISE to become a participant in the Joint-SRO Plan. The Commission finds, therefore, that approving the amendment to the Joint-SRO Plan is appropriate and consistent with Section 11A of the Act.[7]

III. Conclusion

It is therefore ordered, pursuant to Section 11A(a)(3)(B) of the Act[8] and Rule 608 of Regulation NMS,[9] that the amendment to the Joint-SRO Plan to add ISE as a participant is approved and ISE is authorized to act jointly with the other participants to the Joint-SRO Plan in planning, developing, operating, or regulating the Plan as a means of facilitating a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–2093 Filed 2–7–07; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

[7] 15 U.S.C. 78k–1.

[8] 15 U.S.C. 78k–1(a)(3)(B).

[9] 17 CFR 242.608.

[10] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of CyberKey Solutions, Inc.; Order of Suspension of Trading

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CyberKey Solutions, Inc. (''CyberKey'') because of questions regarding the accuracy of assertions made by CyberKey, and others, in press releases and other public statements to investors, concerning among other things: (1) Contracts with the Department of Homeland Security and/or other government agencies, (2) revenues received pursuant to those contracts, and (3) accounts receivable generated by those contracts.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EST February 5, 2007 through 11:59 p.m. EST, on February 16, 2007.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. 07–552 Filed 2–5–07; 11:18 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55202; File No. SR–NASDAQ–2006–040]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 3 to the Proposed Rule Change, and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 2 and 3 To Modify Certain Fees for Listing on The NASDAQ Stock Market and To Make Available Certain Products and Services

January 30, 2007.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 2006, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to modify certain fees for listing on The Nasdaq Stock Market and to make available certain products and services. On October 30, 2006, Nasdaq filed Amendment No. 1.[3] Nasdaq filed Amendment No. 2 on October 31, 2006. The Commission published notice of the proposed rule change, as amended, in the **Federal Register** on November 21, 2006.[4] The Commission received 131 comment letters.[5] On January 16, 2007,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 was improperly filed, and has no impact on this proposed rule change.

[4] *See* Securities Exchange Act Release No. 54752 (November 14, 2006), 71 FR 67410.

[5] Five comment letters were submitted before publication of the notice in the **Federal Register**. *See* October 13, 2006 letter from David B. Armon, Chief Operating Officer (''COO''), PR Newswire, to Arnold Golub, Associate General Counsel (''AGC''), Nasdaq, and October 25, 2006 letter from Jon Olson, Chief Financial Officer (''CFO''), Xilinx, Inc. to Arnold Golub, AGC, Nasdaq. These two letters were included as exhibits to Amendment No. 2. *See also* November 3, 2006 letter from David B. Armon, COO, PR Newswire, to Arnold Golub, AGC, Nasdaq; November 3, 2006 letter from James R. Doty, Baker Botts LLP to Edward S. Knight, Executive Vice President (''EVP''), Nasdaq; November 15, 2006 letter from Michael Nowlan, Chief Executive Officer (''CEO''), Market Wire to Christopher Cox, Chairman, SEC.

The Commission received 117 letters after the publication of the notice but before Nasdaq filed Amendment No. 3: November 22, 2006 letter from Mark Borman, Vice President (''VP'')—Investor Relations (''IR''), ADC; November 22, 2006 letter from David Humphrey, Director of IR, Arkansas Best Corporation; November 22, 2006 letter from Paul Richins, VP of IR, Utah Medical Products, Inc.; November 22, 2006 letter from Ralph Walther, Controller, Brooklyn Federal Bancorp, Inc.; November 24, 2006 letter from Frank Cinatl, VP,

Continued

Abatix Corp.; November 24, 2006 letter from Scott C. Harvard, President/CEO, Shore Financial Corporation; November 25, 2006 letter from Leslie Green, Green Communications Consulting, LLC; November 26, 2006 letter from Robert Shuster, CFO, Independent Bank Corporation; November 27, 2006 letter from Thomas J. Linneman, CEO, Cheviot Financial Corp.; November 27, 2006 letter from Bill Newbould, VP, Corporation Communications, Endo Pharmaceuticals, Inc.; November 27, 2006 letter from Robert Falconi; November 27, 2006 letter from Pamela Murphy, VP IR and Corporate Communications, Incyte Corporation; November 27, 2006 letter from Kevin R. Rhodes, CFO, Edgewater Technology, Inc.; November 27, 2006 letter from Wesley A. Harris, Senior Director—Corporate and Investor Communications, International Speedway Corporation; November 27, 2006 letter from Vicki L. La Mar; November 27, 2006 letter from David W. Dunlap, CFO, Socket Communications, Inc.; November 27, 2006 letter from Ken Maples, CFO, Hiland Partners, LP & Hiland Holdings GP, LP; November 27, 2006 letter from Don T. Seaquist; November 27, 2006 letter from Mitchell A. Derenzo, EVP and CFO, American River Bankshares; November 27, 2006 letter from Nadine Padilla, VP, IR, Biosite Incorporated; November 28, 2006 letter from Jim Bauer, VP-IR, ARRIS Group, Inc.; November 28, 2006 letter from Deirdre Skolfield; November 28, 2006 letter from Bill Perry, Director, Public & IR, SumTotal Systems; November 28, 2006 letter from Don Jennings, President, Kentucky First Federal Bancorp; undated letter from Paul Jennings, President and CEO, Innospec Inc.; November 29, 2006 letter from Darin Sahler, Global Public Relations Manager, FARO Technologies; November 29, 2006 letter from William C. Monigle, President, Bill Monigle Associates; November 29, 2006 letter from Robert C. Weiner, VP, IR, PSS World Medical, Inc.; November 29, 2006 letter from Donovan Chin; November 29, 2006 letter from Donald F. Kuratko, The Jack M. Gill Chair of Entrepreneurship, The Kelley School of Business, Indiana University, Bloomington; November 29, 2006 letter from E.E. Wang; November 29, 2006 letter from David Chidester, CFO, Overstock.com; November 29, 2006 letter from Michael W. Dosland, President and CEO, First Federal Bankshares, Inc.; November 30, 2006 letter from Ronald Remick, SVP and CFO, K-Tron International, Inc.; November 30, 2006 letter from Robert J. Caso, CFO, Cellegy Pharmaceuticals; November 30, 2006 letter from Bill Richardson, Governor of New Mexico; December 1, 2006 letter from Shannon Burns, CFA, Gander Mountain Company; December 1, 2006 letter from Ken Maples, CFO, Hiland Partners, LP; December 4, 2006 letter from Melvin J. Thompson; December 4, 2006 letter from Steven D. Carr, Managing Director, Dresner Corporate Services; December 4, 2006 letter from Geoffrey M. Boyd, CFO, Eschelon Telecom, Inc.; December 4, 2006 letter from Ann M. Storberg, VP—IR, American Physicians Capital, Inc.; December 6, 2006 letter from Michael Frank, Director of IR, EDGAR Online, Inc.; December 6, 2006 letter from David G. Wallace, IR Officer, Bancshares of Florida, Inc.; December 7, 2006 letter from Andrew J. Simmons, CFO, Stealthgas, Inc.; December 7, 2006 letter from J.O. Michael; December 6, 2006 letter from Betsy Atkins; December 7, 2006 letter from Diane Helland, Director, IR and Corporate Communications, Quality Distribution; December 7, 2006 letter from Earle A. MacKenzie, EVP, Shenandoah Telecommunication Company; December 7, 2006 letter from Bradley Gittings; December 7, 2006 letter from Michael Walsh, Principal, IR Associates; December 7, 2006 letter from Scott Poirier, NewStar Financial, Inc.; December 7, 2006 letter from Rich Jeffers, Director, IR, NetBank, Inc.; December 7, 2006 letter from Christine Cassiano, Director, Corporate Communications and IR, Abraxis BioScience, Inc.; December 8, 2006 letter from Terry D. Frandsen, CFO, Escalade, Inc.; December 8, 2006 letter from Bruce N. Beckloff, VP of IR, ARM Holdings; December 7, 2006 letter from Mark E. Reese, SVP and CFO, EMC Insurance Group Inc.; December 8, 2006 letter from Scott Leslie, President, One Good Call; December 8, 2006 letter from John Scott; December 8, 2006 letter from Scott Huber; December 8, 2006 letter from James Scott; December 8, 2006 letter from Constantine Konstans, Professor and Director of the Institute for Excellence in Corporate Governance, School of Management, University of Texas at Dallas; December 8, 2006 letter from Charlotte F. Shropshire, Business Development Ashton Partners; December 8, 2006 letter from Bill Turcotte; December 8, 2006 letter from David H. Chun, CEO, Equilar, Inc.; December 8, 2006 letter from Marlon S. Evans, Non-Profit Executive Director; December 9, 2006 letter from Willa M. McManmon, Director, IR, Trimble; December 10, 2006 letter from Venkatraman Balakrishnan, CFO, Infosys Technologies Limited; December 10, 2006 letter from Brad Burke, Managing Director, Rice Alliance for Technology and Entrepreneurship; December 10, 2006 letter from Judith A. Lindsay, Retired IRO; December 11, 2006 letter from Freddie Liu, CFO, ASE Test Limited; December 11, 2006 letter from Jos [*sic*] Ignacio Del Barrio; December 11, 2006 letter from Joy Basu, CFO, Rediff.com India Limited; December 11, 2006 letter from Jacqueline Borer, Borer Financial Communications, LLC; December 11, 2006 letter from Steve D. Albright, VP and CFO, Reliv International, Inc.; December 11, 2006 letter from Roland Sackers, CFO, QIAGEN N.V.; December 11, 2006 letter from Mary Ryan; December 11, 2006 letter from Mari-Anne Pisarri, Pickard and Djinis LLP, on behalf of Thomson Financial LLC; December 11, 2006 letter from Ann M. Jones, IR Consultant; December 11, 2006 letter from Mariann Caprino; December 11, 2006 letter from Donovan Chin; December 11, 2006 letter from Gale Blackburn, Corporate VP of IR, AmCOMP Incorporated; December 11, 2006 letter from Christopher S. Keenan, Director, IR, Cytokinetics; December 11, 2006 letter from Lillian Vassilatos, IR, Eclipsys Corporation; December 11, 2006 letter from Tammy Thayer, President, Center for Advanced Studies in Business, UW-Madison; December 11, 2006 letter from Sarah Norton, IR; December 11, 2006 letter from Matthew J. Pfeffer, CPA, CFO and SVP, Finance and Administration; December 11, 2006 letter from Athan Demakos; December 11, 2006 letter from John L. Hunter; December 11, 2006 letter from Suresh K. Bhaskaran; December 11, 2006 letter from Marc R. Paul and Margaret R. Blake, Baker & McKenzie LLP, on behalf of PR Newswire; December 11, 2006 letter from F. Scott Dueser, President and CEO, First Financial Bankshares; December 11, 2006 letter from Robert L. Stolebarger, Roger Myers, and Richard M. Mooney, Holme Roberts & Owen LLP, and James R. Doty and Brad Bennett, Baker Botts LLP, on behalf of Business Wire; December 12, 2006 letter from Tom G. Howitt, CFO, Genetic Technologies Limited; December 12, 2006 letter from Simon C. Adams; December 12, 2006 letter from Ramasubramanian Venkatasubramanian, Company Secretary, Sify Limited; December 12, 2006 letter from Eric P. Merrigan, CPA, Member, CPA Australia; December 12, 2006 letter from Efstathios D. Gourdomichalis, CFO, Freeseas; December 12, 2006 letter from Paul McBarron; December 12, 2006 letter from Julian Thomson, IR Manager, Acergy S.A.; December 12, 2006 letter from John W. Sinders, Jr., Director—Transportation, Oil Service and Emerging Markets, Jefferies & Company, Inc.; December 12, 2006 letter from Dominic Jones, Principal, IRWebReport.com; December 12, 2006 letter from Fran Butera, CFA, WPP, Director of IR; December 12, 2006 letter from Michael P. Black, Associate of the Charted Institute of Management Accountants; December 12, 2006 letter from Patrick J. Healy, CPA, MBA, CEO, Issuer Advisory Group; December 12, 2006 letter from Len Cereghino, The Cereghino Group; December 12, 2006 letter from Louis Ploth, Jr., VP and CFO, Repros Therapeutics Inc.; December 12, 2006 letter from Jonathan E. Drayna, VP, IR, Associated Banc-Corp; December 12, 2006 letter from Michael N. Sohn and Donna E. Patterson, Arnold & Porter LLP, on behalf of Nasdaq; December 12, 2006 letter from Andrew A. Sauter, VP, Finance—Avigen, Inc.; December 12, 2006 letter from Richard Sommer; December 12, 2006 letter from Lisa Ann Sanders; December 13, 2006 letter from David Chidester, CFO, Overstock.com; December 13, 2006 letter from Jose Ignacio Del Barrio, EVP Business Development and Head of IR—TELVENT GIT; December 13, 2006 letter from David K. Waldman on behalf of Perma-Fix Environmental Services; December 15, 2006 letter from Adam Yan, eFuture Information Tech Inc.; undated letter from Douglas Ian Shaw, SVP and Corporate Secretary, Suffolk County National Bank, Suffolk Bancorp. The Commission also received nine letters after Nasdaq filed Amendment No. 3. *See* footnote 5 *infra.* January 23, 2007 letter from Marc R. Paul and Margaret R. Blake, Baker & McKenzie LLP, on behalf of PR Newswire; January 23, 2007 letter from Frank J. Cinatl, CFO, Abatix Corp.; January 24, 2007 letter from Kelly A. Richards, Marketing Director, Inforte; January 23, 2007 letter from Garry D. Kline; January 23, 2007 letter from Douglas Ian Shaw, SVP and Corporate Secretary, Suffolk Bancorp; January 23, 2007 letter from Steve Loomis, CardioDynamics—the ICG Company; January 25, 2007 letter from Steve Loomis, asking to recall January 23, 2007 letter; January 25, 2007 letter from Robert L. Stolebarger, Roger Myers, Holme Roberts & Owen LLP and James R. Doty, Brad Bennett, Baker Botts LLP; January 29, 2007 letter from Marc R. Paul and Margaret R. Blake, Baker & McKenzie LLP.

Nasdaq filed a response to comments,[6] and also filed Amendment No. 3 to the proposed rule change, asking the Commission to grant accelerated approval of the proposed rule change, as amended. The Commission hereby issues notice of the filing of Amendment No. 3 and simultaneously grants accelerated approval to the proposed rule change as modified by Amendment Nos. 2 and 3.

II. Description of the Proposed Rule Change

With the initial proposed rule change and Amendment No. 2, Nasdaq proposed the following:

• To modify the entry fees payable by issuers listing on the Nasdaq Capital Market (''Capital Market'') (assessed on the date of entry and calculated based on total shares outstanding) by increasing the minimum entry fee from $25,000 for listing up to five million shares of securities with a maximum of $50,000 for listing over 15 million shares, to $50,000 for an issuer listing up to 15 million shares with a maximum of $75,000 for an issuer listing over 15 million shares;

• To modify the fees for listing additional shares by domestic companies listed on the Nasdaq Global Market (''Global Market'') or the Capital Market by increasing the minimum quarterly fee from $2,500 or $0.01 per

[6] *See* January 16, 2007 letter to Nancy M. Morris, Secretary, SEC, from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq (''Nasdaq Response'').

additional shares (whichever is higher) up to an annual maximum of $45,000 per issuer, to $5,000 with the maximum fee increasing to $65,000 per year (the rule would continue to provide that no fee be charged for issuances of up to 49,999 additional shares per quarter);

• To introduce an LAS fee of $5,000 for non-U.S. companies that list additional shares or additional shares underlying American Depositary Receipts (''ADRs'') in a given fiscal year (historically, Nasdaq did not charge these companies an LAS fee), calculating the fee annually based on the change in the issuer's total shares outstanding as reported on its annual reports filed with the SEC (excluding issuances of up to 49,999 additional shares per year);

• To increase annual fees on the Global Market from a minimum of $24,500 and a maximum of $75,000, to a minimum of $30,000 and a maximum of $95,000;

• To increase annual fees on the Capital Market from a minimum of $17,500 and a maximum of $21,000 to a $27,500 flat fee for any amount of shares outstanding (annual fees for ADRs listed on the Capital Market and ADRs and Closed End Funds on the Global Market would remain unchanged);

• To increase the non-refundable fee for a written interpretation from Nasdaq as to how Nasdaq's rules apply to a specific action or transaction that an issuer is considering from $2,000 to $5,000; additionally, Nasdaq proposes to increase the fee from $10,000 to $15,000 when the issuer seeks this same service on an expedited basis;

• To adopt new Interpretive Material to clarify that, in the case where a Nasdaq-listed company is acquired by a non-Nasdaq company and the surviving entity of the merger lists on the Global Market or the Capital Market, the company would receive a pro-rated waiver of the annual fee for the period of time following the merger;

• To waive the entry fee if a non-listed company acquires a company listed on another market, and, in connection with the acquisition, the surviving entity lists on Nasdaq;

• To eliminate the entry fee for most companies transferring between the Capital Market and the Global Market. The Global Market entry fee would not be applicable to a transfer from the Capital Market to the Global Market, except if a company that qualified for the Global Market chose to initially list after January 1, 2007 on the Capital Market instead. In that limited case, when the company seeks to transfer, Nasdaq proposes to charge the company the difference between the Global Market Fee in effect at the time of the transfer and the Capital Market fee previously paid.

• To make available products and services intended to assist companies with their disclosure and regulatory obligations, shareholder communications, and other corporate objectives.

With Amendment No. 3, Nasdaq withdrew from the proposal its initial offer of products and services. Specifically, Nasdaq has determined not to rely on the previously offered service that converts companies' annual reports and proxy materials into dynamic, online documents for use by current and potential shareholders, four audio webcasts, four press releases, four Form 8–K (or 6–K) filings, and customized reports to help analyze issuers' risk of exposure to securities litigation, as a basis for the proposed fee increases.

III. Summary of Comments

A large number of comment letters focused on Nasdaq's offer of a bundle of products and services described above. While there were 65 letters in favor of the proposal and the bundle of services,[7] most of the remainder of the letters objected to the proposal, citing issues that included alleged illegal tying arrangements and other antitrust violations, and potential conflicts of interest.[8] Because Nasdaq filed Amendment No. 3 to remove the bundle of services from the proposed rule change, these issues are now moot, and therefore are not discussed in this Summary of Comments.

The Commission notes that a number of commenters objected to the proposed rule change on the basis that the fees Nasdaq was proposing were too high,[9] regardless of the bundle of services. The Commission believes those same commenters would continue to express their disapproval of Nasdaq's proposed fee structure after Nasdaq filed Amendment No. 3, for the fees remain at the initially-proposed level, despite the removal of the bundle of services from the proposed rule change.[10] Therefore, the Commission weighed those comments as opposed to the filing in deciding to approve the proposed rule change.

IV. Nasdaq's Response to Comments

Nasdaq believes the proposed annual listing fees are reasonable *per se* because the proposed fees ''are generally below those of other markets.''[11] Given that fact, Nasdaq believes the proposed fee increase meets the reasonableness standard of Section 6(b)(4) of the Act.[12]

As noted previously in this approval order, Nasdaq modified the proposed rule change to remove its previously planned offering of (i) The service that converts annual reports and proxy materials into online documents; (ii) four audio webcasts; (iii) four press releases; (iv) four Form 8–K (or 6–K) filings; and (v) the customized report to

[7] Many of the commenters expressing support of the proposed bundle of services cited increased competition as a positive outcome of the proposed rule change. *See, e.g.*, November 28, 2006 letter from Deirdre Skolfield (''I am certainly willing to pay a bit more for an even wider breath [*sic*] of services delivered to my desktop. Competition is heating up in the capital markets and NASDAQ offers timely, accessible information to keep Officers and Directors of public companies on top of things''); December 7, 2006 letter from Bradley Gittings (''I believe increased competition is good for the market place. * * * I also believe that offering these services will enhance competition among the providers of those services.''); December 6, 2006 letter from Betsy Atkins (''This proposal creates increased competition, better pricing and enhanced service.''). Other commenters supported the proposal because the approach is innovative and offers new services to its customers. *See, e.g.*, November 29, 2006 letter from E.E. Wang ''I support NASDAQ's attempt to provide value-added, complimentary services to its customers.''); November 29, 2006 letter from Donald F. Kuratko (''This is another example where NASDAQ, using continuous innovation in all products and services, seeks to maximize the level of service and value of listing for its listed companies and their investors.''); December 8, 2006 letter from Constantine Konstans (''NASDAQ is to be commended once again for taking innovative and progressive actions that will certainly increase the level of service to their listees as well as to the investors in NASDAQ-listed companies.'').

[8] *See, e.g.*, October 13, 2006 letter from David B. Armon, COO, PR Newswire; December 11, 2006 letter from Mari-Anne Pisarri, Pickard and Djinis LLP on behalf of Thomson Financial LLC; December 11, 2006 letter from Marc R. Paul and Margaret R. Blake, Baker & McKenzie LLP on behalf of PR Newswire; December 11, 2006 from Robert L. Stolebarger, Roger Myers, Richard M. Mooney, Holme Roberts & Owen LLP and James R. Doty, Brad Bennett, Baker Botts LLP.

[9] *See, e.g.*, October 25, 2006 letter from Jon Olson, CFO, Xilinx, Inc. (''* * *Xilinx's fee increase is $20,000, which we do not view as a 'nominal amount'.''); November 22, 2006 letter from Paul Richins, VP of IR, Utah Medical Products, Inc. (''The proposed increase is more than 3x higher than we currently pay for the services we would get for 'free' under the proposal.''); November 24, 2006 letter from Frank Cinatl, VP, Abatix Corp. (''* * *the proposed increase in our fees to Nasdaq are estimated to be 40% more than my old fees plus what I paid for the proposed bundled services.'') (*See also* January 23, 2007 letter from Frank Cinatl, VP, Abatix Corp., citing no opposition to a moderate fee increase, but disagreeing with the proposed rule change, as amended.)

[10] *See, e.g.*, January 29, 2007 letter from Marc R. Paul and Margaret R. Blake, Baker & McKenzie LLP on behalf of PR Newswire Association LLC (''* * *although a justification for the listing fees has been removed, NASDAQ proposes no corresponding decrease in the amount of its proposed fee increase.'').

[11] Nasdaq Response at 3. Nasdaq offers comparisons of its fees with those of NYSE Arca, the American Stock Exchange, and the New York Stock Exchange (''NYSE'').

[12] *Id.* at 3. 15 U.S.C. 78f(b)(4).

analyze risk of exposure to securities litigation. As a result of this modification to the proposed rule change, Nasdaq did not address the arguments raised by commenters that objected to Nasdaq providing these services, for these services are no longer a basis for the proposed fee increase.[13]

Even with the removal of these services from the proposed rule change, Nasdaq believes the proposed fee increase is reasonable because of ''the substantial resources Nasdaq dedicates to its regulatory programs'' which Nasdaq cites in detail.[14] Additionally, Nasdaq states that the proposed increase in listing fees for companies listed on the Capital Market, though a greater percentage increase than that for Global and Global Select Market companies, is also appropriate because the fees for companies listed on the Capital Market remain lower than the fees of companies listed on the Global and Global Select Markets, while those companies share in all of the regulatory programs cited in the Nasdaq Response.[15] Finally, Nasdaq believes that the proposed fees are equitably allocated because other fee structures that allocate listing fees by shares outstanding have been approved by the Commission.[16]

V. Discussion and Commission Findings

The Commission has reviewed the proposed rule change, the comment letters, and Nasdaq's Response Letter,[17] and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization.[18] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,[19] which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facilities or system which it operates or controls.

The Commission believes that Nasdaq's proposed fee increases are reasonable, for the resultant fees are comparable to similar fees of other self-regulatory organizations. The Commission recognizes that competition for listings is becoming increasingly vigorous, and that such competition should help assure the reasonableness of fees among the markets vying for new listings. Nasdaq also has cited the resources it dedicates to its regulatory programs as evidence of value added for the increase in fees. The Commission believes that Nasdaq's proposed fee increases are reasonable, given the current competitive landscape, the listing fees charged by other self-regulatory organizations, and the value Nasdaq offers issuers that choose to list with Nasdaq. For these reasons, the Commission believes the proposed fee increases meet the statutory standard of an equitable allocation of reasonable dues, fees and other charges.

The proposal would also eliminate the entry fee for most companies transferring between the Capital Market and the Global Market, and waive the entry fee if a non-listed company acquires a company listed on another market (and in connection with the acquisition the surviving entity lists on Nasdaq). The Commission believes that these changes to Nasdaq's fee structure are consistent with Section 6(b)(4) of the Act,[20] and notes that they result in a reduction of fees. Also, the Commission believes Nasdaq's adoption of new Interpretive Material to clarify that Nasdaq would provide a pro-rated waiver of the annual fee for the period of time following a merger in the case where a Nasdaq-listed company is acquired by a non-Nasdaq company and the surviving entity of the merger lists on the Global Market or the Capital Market is both reasonable and a benefit to those issuers choosing to list on Nasdaq in these particular circumstances.[21]

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of the notice thereof in the **Federal Register**. The Commission believes the proposed rule change will allow Nasdaq to more effectively compete for listings with other markets. The Commission believes that no novel issues are raised by Amendment No. 3. Therefore, the Commission finds that there is good cause, consistent with Section 19(b)(2) of the Act, to approve the proposed rule change on an accelerated basis.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2006–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number NASDAQ–2006–040. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal offices of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying

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[13] Nasdaq Response at 2. Nasdaq's proposed enhancements to NASDAQ Online and the Market Intelligence Desk remain part of this proposed rule change.

[14] *Id.* For example, Nasdaq cites its Listing Qualifications and MarketWatch Departments, initiatives Nasdaq has undertaken to increase issuer visibility such as MarketSite and international conferences and the renaming of the Nasdaq SmallCap Market as the Nasdaq Capital Market, enhancements to its trading platform, and enhancements made to Nasdaq Online and the Market Intelligence Desk.

[15] *Id.*

[16] *Id.* at 3. Nasdaq references analogous fee structures in place at the NYSE, NYSE Arca and the American Stock Exchange.

[17] The Commission believes that Nasdaq has responded adequately to the comments.

[18] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(4).

[20] 15 U.S.C. 78f(b)(4).

[21] One commenter objects in principle to Nasdaq venturing beyond being ''a regulated entity in the narrow market for listing services'' to operating other businesses. *See* January 25, 2007 letter from Robert L. Stolebarger, et al., at 5–10. Another commenter objects to Nasdaq allegedly using fees to subsidize ''non-exchange-related commercial activities.'' *See* January 29, 2007 letter from Marc R. Paul and Margaret R. Blake, Baker & McKenzie LLP. The Commission notes that these issues are beyond the scope of this proposed rule change, since Nasdaq has removed its initial offer of products and services with the filing of Amendment No. 3.

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2006–040 and should be submitted on or before March 1, 2007.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASDAQ–2006–040), as modified by Amendment Nos. 2 and 3, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–2083 Filed 2–7–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55222; File No. SR–NYSE–2006–68]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendments No. 1, 2, and 3 Thereto To List and Trade Exchange-Traded Notes of Barclays Bank PLC Linked to the Performance of the U.S. Dollar/Japanese Yen Exchange Rate

February 1, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 24, 2006 the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the Exchange. On January 3, 2007, the Exchange submitted Amendment No. 1.[3] On January 23, 2007, the Exchange submitted Amendment No. 2.[4] On January 29, 2007, the Exchange submitted Amendment No. 3.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade exchange-traded notes (''Notes'') of Barclays Bank PLC (''Barclays'') linked to the performance of the U.S. dollar/Japanese yen exchange rate (the ''USD/JPY exchange rate''). The Exchange also proposes to add new Supplementary Material .10 to Rule 1300A and Rule 1301A. Below is the text of the proposed rule change. Proposed new language is in *italics.*

Rule 1300A. Currency Trust Shares

* * * * *

• • • *Supplementary Material:*

.10 The provisions of Rule 1300A(b) and Rule 1301A shall apply to securities listed on the Exchange pursuant to Section 703.19 (''Other Securities'') of the Listed Company Manual where the price of such securities is based in whole or part on the price of (a) a non-U.S. currency or currencies, (b) any futures contracts or other derivatives based on a non-U.S. currency or currencies, or (c) any index based on either (a) or (b) above.

* * * * *

Rule 1301A. Currency Trust Shares: Securities Accounts and Orders of Specialists

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• • • *Supplementary Material:*

.10 The provisions of Rule 1300A(b) and Rule 1301A shall apply to securities listed on the Exchange pursuant to Section 703.19 (''Other Securities'') of the Listed Company Manual where the price of such securities is based in whole or part on the price of (a) a non-U.S. currency or currencies, (b) any futures contracts or other derivatives based on a non-U.S. currency or currencies, or (c) any index based on either (a) or (b) above.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Notes

Under Section 703.19 of the Listed Company Manual (the ''Manual''), the Exchange may approve for listing and trading securities not otherwise covered by the criteria of Sections 1 and 7 of the Manual, provided the issue is suited for auction market trading. The Exchange proposes to list and trade, under Section 703.19 of the Manual, the Notes, which are linked to the performance of the USD/JPY exchange rate. Barclays intends to issue the Notes under the name ''iPath^{SM} Exchange Traded Notes.''

The Exchange believes that the Notes will conform to the initial listing standards for equity securities under Section 703.19, as Barclays is an affiliate of Barclays PLC,[6] which is a listed company in good standing, the Notes will have a minimum life of one year, the minimum public market value of the Notes at the time of issuance will exceed $4 million, there will be at least one million Notes outstanding, and there will be at least 400 holders at the time of issuance. The Notes are a series of medium-term debt securities of Barclays that provide for a cash payment at maturity or upon earlier redemption at the holder's option, based on the performance of the USD/JPY exchange rate subject to the adjustments described below. The original issue price of each Note will be $25. The Notes will trade on the Exchange's equity trading floor, and the Exchange's existing equity trading rules will apply to trading in the Notes.

The USD/JPY exchange rate is a foreign exchange spot rate that measures the relative values of two currencies, the Japanese yen and the U.S. dollar. When the Japanese yen appreciates relative to the U.S. dollar, the USD/JPY exchange rate decreases (and the value of the

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the Exchange's original submission in its entirety.

[4] Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

[5] Amendment No. 3 replaced and superseded Amendment No. 2 in its entirety.

[6] The issuer of the Notes, Barclays, is an affiliate of an Exchange-listed company (Barclays PLC) and not an Exchange-listed company itself. However, Barclays, though an affiliate of Barclays PLC, would exceed the Exchange's earnings and minimum tangible net worth requirements in Section 102 of the Manual. Additionally, Barclays has informed the Exchange that the original issue price of the Notes, when combined with the original issue price of all other iPath securities offerings of the issuer that are listed on a national securities exchange (or association), does not exceed 25% of the issuer's net worth.

Notes increases); when the Japanese yen depreciates relative to the U.S. dollar, the USD/JPY exchange rate increases (and the value of the Notes decreases). The USD/JPY exchange rate is expressed as a rate that reflects the number of Japanese yen that can be exchanged for one U.S. dollar in the interbank market for settlement in two days, as reported each day shortly after 10 a.m. Eastern Time (''ET'') on Reuters page 1FED or any successor page.

The Notes will not have a minimum principal amount that will be repaid and, accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. In fact, the USD/JPY exchange rate must decrease for the investor to receive at least the $25 original issue price per Note at maturity or upon redemption. If the USD/JPY exchange rate increases or does not decrease sufficiently to offset any negative effect of the adjustment factor (described below), the investor will receive less, and possibly significantly less, than the $25 original issue price per Note. In addition, holders of the Notes will not receive any interest payments from the Notes. The Notes will have a term of 30 years. The Notes are not callable.

If the Notes are held to maturity, the holder will receive a cash payment at maturity that is linked to the percentage change in the USD/JPY exchange rate between the date of issuance and the final valuation date. The cash payment at maturity will be equal to the fraction where the numerator equals (1) The reference currency amount times (2) the adjustment factor as determined on the final valuation date, and the denominator equals the USD/JPY exchange rate on the final valuation date. The reference currency amount is the original issue price of the Notes times the USD/JPY exchange rate on the inception date. The adjustment factor will be calculated on a daily basis and on the inception date will equal one. On each subsequent business day until the final valuation date, the adjustment factor will equal (1) the adjustment factor on the immediately preceding business day times (2) the sum of one plus (a) the Mutan rate on the day minus (b) 0.27% minus (c) the investor fee times (3) the relevant daycount fraction. The Mutan rate is the Bank of Japan's uncollateralized overnight call rate, as reported on Reuters page TONAR or any successor page on that day. The investor fee is equal to 0.40% of the reference currency amount per year and is the only fee payable by investors in connection with an investment in the Notes. The daycount fraction on any business day will be the number of calendar days that have elapsed since the immediately preceding business day divided by 365. If the maturity date is not a business day, the maturity date will be the next following business day. If the fifth business day before this day does not qualify as a valuation date (as described below), then the maturity date will be the fifth business day following the final valuation date. In such event penalty interest will not accrue or be payable with respect to that deferred payment.

Prior to maturity, holders may, subject to certain restrictions, choose to redeem their Notes on any redemption date during the term of the Notes provided that they present at least 100,000 Notes for redemption. Holders may also act through a broker or other financial intermediary (such as a bank or other financial institution not required to register as a broker-dealer to engage in securities transactions) that is willing to bundle their Notes for redemption with other investors' securities. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 100,000 Notes. Any such reduction will be applied on a consistent basis for all holders of the Notes at the time the reduction become effective. If holders redeem their Notes on a particular redemption date, they will receive a cash payment on such date in an amount equal to the weekly redemption value, which is the fraction where the numerator equals (1) the reference currency amount times (2) the adjustment factor as determined on the applicable valuation date, and the denominator equals the USD/JPY exchange rate on the applicable valuation date. Holders must redeem at least 100,000 Notes at one time in order to exercise their right to redeem their Notes on any redemption date. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 100,000 Notes. Any such reduction will be applied on a consistent basis for all holders of Notes at the time the reduction becomes effective. A valuation date is each Thursday from the first Thursday after issuance of the Notes until the last Thursday before maturity of the Notes (the ''final valuation date'') inclusive or, if such date is not a trading day, the next succeeding trading day, not to exceed five business days. A redemption date is the second business day following a valuation date (other than the final valuation date). The final redemption date will be the second business day following the valuation date immediately prior to the final valuation date.

To redeem their Notes, Holders must instruct their broker or other person with whom they hold their Notes to take the following steps:

- Deliver a notice of redemption to Barclays via e-mail by no later than 11 a.m. ET on the business day prior to the applicable valuation date. If Barclays receives notice by the time specified in the preceding sentence, it will respond by sending a form of confirmation of redemption;
- Deliver the signed confirmation of redemption to Barclays via facsimile in the specified form by 4 p.m. ET on the same day. Barclays or its affiliate must acknowledge receipt in order for confirmation to be effective;
- Instruct their DTC custodian to book a delivery vs. payment trade with respect to their Notes on the valuation date at a price equal to the applicable Weekly Redemption Value, facing Barclays Capital DTC 5101; and
- Cause their DTC custodian to deliver the trade as booked for settlement via DTC at or prior to 10 a.m. ET on the applicable redemption date (the third business day following the valuation date).

If holders elect to redeem their Notes, Barclays may request that Barclays Capital Inc. (a broker-dealer) purchase the Notes for the cash amount that would otherwise have been payable by Barclays upon redemption. In this case, Barclays will remain obligated to redeem the Notes if Barclays Capital Inc. fails to purchase the Notes. Any Notes purchased by Barclays Capital Inc. may remain outstanding.

If an event of default occurs and the maturity of the Notes is accelerated, Barclays will pay the default amount in respect of the principal of the Notes at maturity. The default amount for the Notes on any day will be an amount, determined by the calculation agent in its sole discretion, equal to the cost of having a qualified financial institution, of the kind and selected as described below, expressly assume all Barclays' payment and other obligations with respect to the Notes as of that day and as if no default or acceleration had occurred, or to undertake other obligations providing substantially equivalent economic value to the holders of the Notes with respect to the Notes. That cost will equal:

- The lowest amount that a qualified financial institution would charge to effect this assumption or undertaking, plus
- The reasonable expenses, including reasonable attorneys' fees, incurred by the holders of the Notes in preparing

any documentation necessary for this assumption or undertaking.

During the default quotation period for the Notes (described below), the holders of the Notes and/or Barclays may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in the first bullet point above will equal the lowest—or, if there is only one, the only—quotation obtained, and as to which notice is so given, during the default quotation period. With respect to any quotation, however, the party not obtaining the quotation may object, on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the default quotation period, in which case that quotation will be disregarded in determining the default amount. The default quotation period is the period beginning on the day the default amount first becomes due and ending on the third business day after that day, unless:

• No quotation of the kind referred to above is obtained, or

• Every quotation of that kind obtained is objected to within five business days after the due date as described above.

If either of these two events occurs, the default quotation period will continue until the third business day after the first business day on which prompt notice of a quotation is given as described above. If that quotation is objected to as described above within five business days after that first business day, however, the default quotation period will continue as described in the prior sentence and this sentence.

In any event, if the default quotation period and the subsequent two business day objection period have not ended before the final valuation date, then the default amount will equal the stated principal amount of the Notes.[7]

Indicative Value

An intraday ''Indicative Value'' meant to approximate the intrinsic economic value of the Notes will be calculated and published via the facilities of the Consolidated Tape Association (''CTA'') every 15 seconds throughout the NYSE trading day on each day on which the Notes are traded on the Exchange.[8]

Additionally, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at www.ipathetn.com. The last sale price of the Notes will also be disseminated over the consolidated tape, subject to a 20-minute delay. In connection with the Notes, the term ''Indicative Value'' refers to the value at a given time determined based on the following equation:

Indicative Value = (Reference Currency Amount × Current Adjustment Factor)/Current USD/JPY Exchange Rate

Where:

Current USD/JPY Exchange Rate = The exchange rate as reported on that day.

The Current USD/JPY Exchange Rate used for the calculation of the Indicative Value will be the USD/JPY exchange rate disseminated by Bloomberg L.P. during the course of the trading day on a 15-second delayed basis.

Continued Listing Criteria

The Exchange prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.

The Exchange will delist the Notes:

• If, following the initial 12-month period from the date of commencement of trading of the Notes: (i) The Notes have more than 60 days remaining until maturity and there are fewer than 50 beneficial holders of the Notes for 30 or more consecutive trading days; (ii) if fewer than 100,000 Notes remain issued and outstanding; or (iii) if the market value of all outstanding Notes is less than $1,000,000.

• If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on a 15-second delayed basis.

• If, during the time the Notes trade on the Exchange, the USD/JPY exchange rate ceases to be calculated or available on at least a 15-second delayed basis from one or more major market data vendors.

• If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Trading Halts

If the Exchange Rate or the Indicative Value is not being disseminated as required, the Exchange may halt trading during the day on which the interruption to the dissemination of the Exchange Rate or the Indicative Value first occurs. If the interruption to the dissemination of the Exchange Rate or the Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Rules Applicable to Specialists in Currency-Related Securities

Proposed Supplementary Material .10 to each of Rules 1300A and 1301A will apply the provisions of Rule 1300A(b) and Rule 1301A to certain securities listed on the Exchange pursuant to Section 703.19 (''Other Securities'') of the Exchange's Listed Company Manual. Specifically, Rules 1300A(b) and 1301A will apply to securities listed under Section 703.19 where the price of such securities is based in whole or part on the price of (a) A non-U.S. currency or currencies, (b) any futures contracts or other derivatives based on a non-U.S. currency or currencies, or (c) any index based on either (a) or (b) above. As a result of application of Rule 1300A(b), the specialist in the Notes, the specialist's member organization and other specified persons will be prohibited under paragraph (m) of Exchange Rule 105 Guidelines from acting as market maker or functioning in any capacity involving market-making responsibilities in the Japanese yen, options, futures or options on futures on the Japanese yen, or any other derivatives based on the Japanese yen (collectively, ''derivative instruments''). If the member organization acting as specialist in the Notes is entitled to an exemption under NYSE Rule 98 from paragraph (m) of NYSE Rule 105 Guidelines, then that member organization could act in a market making capacity in the Japanese yen or derivative instruments based on the Japanese yen, other than as a specialist in the Notes themselves, in another market center.

Under Rule 1301A(a), the member organization acting as specialist in the Notes (1) will be obligated to conduct all trading in the Notes in its specialist account, (subject only to the ability to have one or more investment accounts, all of which must be reported to the Exchange), (2) will be required to file with the Exchange and keep current a

[7] Additional information about the default provisions of the Notes is provided in Barclays' Registration Statement on Form F–3 (333–126811), as amended by Amendment No. 1 on September 14, 2005.

[8] The Indicative Value calculation will be provided for reference purposes only. It is not intended as a price or quotation, or as an offer or solicitation for the purchase, sale, redemption or termination of the Notes, nor will it reflect hedging or transaction costs, credit considerations, market liquidity or bid-offer spreads. Published quotations of the USD/JPY exchange rate from Reuters may occasionally be subject to delay or postponement. Any such delays or postponements will affect the current USD/JPY exchange rate and therefore the Indicative Value of the Notes. The actual trading price of the Notes may be different from their indicative value.

list identifying all accounts for trading in the Japanese yen or derivative instruments based on the Japanese yen, which the member organization acting as specialist may have or over which it may exercise investment discretion, and (3) will be prohibited from trading in the Japanese yen or derivative instruments based on the Japanese yen, in an account in which a member organization acting as specialist, controls trading activities which have not been reported to the Exchange as required by Rule 1301A.

Under Rule 1301A(b), the member organization acting as specialist in the Notes will be required to make available to the Exchange such books, records or other information pertaining to transactions by the member organization and other specified persons for its or their own accounts in the Japanese yen or derivative instruments based on the Japanese yen, as may be requested by the Exchange. This requirement is in addition to existing obligations under Exchange rules regarding the production of books and records.

Under Rule 1301A(c), in connection with trading the Japanese yen or derivative instruments based on the Japanese yen, the specialist could not use any material nonpublic information received from any person associated with a member or employee of such person regarding trading by such person or employee in the Japanese yen or derivative instruments based on the Japanese yen.

Surveillance

The Exchange's surveillance procedures will incorporate and rely upon existing Exchange surveillance procedures governing equities with respect to surveillance of the Notes. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Notes and to detect violations of Exchange rules, thereby deterring manipulation. In this regard, the Exchange currently has the authority under NYSE Rule 476 to request the Exchange specialist in the Notes to provide NYSE Regulation with information that the specialist uses in connection with pricing the Notes on the Exchange, including specialist, proprietary or other information regarding securities, currencies, futures, options on futures or other derivative instruments. The Exchange believes it also has authority to request any other information from its members—including floor brokers, specialists and ''upstairs'' firms—to fulfill its regulatory obligations.

The Exchange's current trading surveillances focus on detecting securities trading outside normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange is able to obtain information regarding trading in the Notes, yen options and yen futures through NYSE members, in connection with such members' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG. Specifically, the NYSE can obtain such information from the Philadelphia Stock Exchange (''Phlx'') in connection with yen options trading on the Phlx and from the Chicago Mercantile Exchange (''CME'') in connection with yen futures trading on the CME.[9]

Trading Rules

The Exchange's existing trading rules will apply to trading of the Notes. The Notes will trade between the hours of 9:30 a.m. and 4 p.m. ET and will be subject to the equity margin rules of the Exchange.

Suitability

Pursuant to Exchange Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[10] With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

Information Memorandum

The Exchange will, prior to trading the Notes, distribute an information memorandum to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes. The information memorandum will note to members language in the prospectus used by Barclays in connection with the sale of the Notes regarding prospectus delivery requirements for the Notes. In the initial distribution of the Notes, and during any subsequent distribution of the Notes, NYSE member organizations will deliver a prospectus to investors purchasing from such distributors.[11]

The information memorandum will discuss the special characteristics and risks of trading this type of security. Specifically, the information memorandum, among other things, will discuss what the Notes are, how the Notes are redeemed, applicable Exchange rules, dissemination of information regarding the Indicative Value, the USD/JPY exchange rate, trading information and applicable suitability rules.

The information memorandum will also notify members and member organizations about the procedures for redemptions of Notes and that Notes are not individually redeemable but are redeemable only in aggregations of at least 100,000 Notes. The information memorandum will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act. The information memorandum will also reference that there is no regulated source of last sale information regarding currency exchange rates and that the Commission has no jurisdiction over the trading of currencies on which the value of the Notes is based.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5),[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[9] The Phlx is a full member and the CME is an affiliate member of the ISG.

[10] NYSE Rule 405 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

[11] The Registration Statement reserves the right to make subsequent distributions of these Notes.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NYSE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

NYSE has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–68.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–68. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–68 and should be submitted on or before February 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E7–2061 Filed 2–7–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55218; File No. SR–NYSE–2007–05]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Rule 36 (Communication Between Exchange and Members' Offices)

January 31, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 25, 2007, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On January 31, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This proposal seeks to extend the portable phone pilot (the ''Pilot'') for an additional year, until January 31, 2008. The Pilot amends NYSE Rule 36 (Communication Between Exchange and Members' Offices) to allow a Floor broker and Registered Competitive Market Maker (''RCMM'') to use an Exchange authorized and provided portable telephone on the Exchange Floor, provided certain conditions are met. The current Pilot expires on January 31, 2007.[5]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The Commission originally approved the Pilot to be implemented as a six-month pilot[6] beginning no later than June 23, 2003.[7] Since the inception of the Pilot, the Exchange has extended the Pilot seven times, with the current Pilot expiring on January 31, 2007.[8]

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 54276 (August 4, 2006), 71 FR 45885 (August 10, 2006) (SR–NYSE–2006–55).

[6] *See* Securities Exchange Act Release No. 47671 (April 11, 2003), 68 FR 19048 (April 17, 2003) (SR–NYSE–2002–11) (''Original Order'').

[7] *See* Securities Exchange Act Release No. 47992 (June 5, 2003), 68 FR 35047 (June 11, 2003) (SR–NYSE–2003–19) (delaying the implementation date for portable phones from on or about May 1, 2003 to no later than June 23, 2003).

[8] *See* Securities Exchange Act Release Nos. 48919 (December 12, 2003), 68 FR 70853 (December 19, 2003) (SR–NYSE–2003–38) (extending the Pilot for an additional six months ending on June 16, 2004); 49954 (July 1, 2004), 69 FR 41323 (July 8, 2004) (SR–NYSE–2004–30) (extending the Pilot for an

Continued

With respect to regulatory actions concerning the Pilot, as previously disclosed, there was an investigation into possible insider trading in an NYSE listed security involving the trading activity of two RCMMs and the use of an Exchange authorized and provided portable phone by one of the RCMMs in or about January 2005, which was closed on December 21, 2006, with no action by NYSE Regulation, Inc. (''NYSE Regulation'').[9]

No administrative or technical problems, other than routine telephone maintenance issues, have resulted from the Pilot over the past few months.[10] The Exchange is now filing to extend the Pilot for an additional year, until January 31, 2008.

NYSE Rule 36

Rule 36 governs the establishment of telephone or electronic communications between the Exchange's Trading Floor and any other location. Prior to the Pilot, Rule 36 prohibited the use of portable telephone communication between the Trading Floor and any off-Floor location.

The Exchange is proposing to extend the Pilot for an additional year, permitting Floor brokers and RCMMs to use Exchange authorized and issued portable telephones on the Floor. Thus, with the approval of the Exchange, a Floor broker would continue to be permitted to engage in direct voice communication from the point of sale to an off-Floor location, such as a member firm's trading desk or the office of one of the broker's customers. Such communications would permit the Floor broker to accept orders consistent with Exchange rules, provide status and oral execution reports as to orders previously received, as well as ''market look'' observations as have historically been routinely transmitted from a Floor broker's booth location.[11]

The Pilot also allows RCMMs to use an Exchange authorized portable phone solely to call and receive calls from their booths on the Floor, to communicate with their or their member organizations' off-Floor office, and to communicate with the off-Floor office of their clearing member organization to enter off-Floor orders and to discuss matters related to the clearance and settlement of transactions, provided the off-Floor office uses a wired telephone line for these discussions. RCMMs are currently not allowed to use a portable phone to conduct any agency business until issues involving the use of portable phones by RCMMs acting in the capacity of agent have been fully reviewed and resolved by NYSE Regulation in consultation with the Commission.[12] For both RCMMs and Floor brokers, use of a portable telephone on the Exchange Floor other than one authorized and issued by the Exchange will continue to be prohibited.

Both incoming and outgoing calls would continue to be allowed, provided the requirements of all other Exchange rules have been met. A Floor broker would not be permitted to represent and execute any order received as a result of such voice communication unless the order was first properly recorded by the member and entered into the Exchange's Front End Systemic Capture (FESC) electronic database (NYSE Rule 123 (e)).[13] In addition, Exchange rules require that any Floor broker receiving orders from the public over portable phones must be properly qualified to engage in such direct access business under Exchange Rules 342 and 345, among others.[14]

Specialists are subject to separate restrictions in Rule 36 on their ability to engage in voice communications from the specialist post to an off-Floor location.[15] The Pilot would not apply to specialists, who would continue to be prohibited from speaking from the post to upstairs trading desks or customers.[16]

The Exchange believes that the approval of the Pilot's continuation for an additional year will enable the Exchange to continue to provide more direct, efficient access to its trading crowds and customers, increase the speed of transmittal of orders and the execution of trades, and provide an enhanced level of service to customers in an increasingly competitive environment.[17] The Exchange further believes that by enabling customers to speak directly to a Floor broker in a trading crowd on an Exchange authorized and issued portable telephone and by allowing RCMMs to communicate with their upstairs office's land line, the land line of their clearing member organization's upstairs office, and their booth personnel at the booth, the proposed rule change will expedite and make more direct the free flow of information.

Pilot Program Results

Since the Pilot's inception, there have been approximately 681 portable phone subscribers.[18] In addition, with regard to portable phone usage, for a sample week of 12/11/2006–12/15/2006, an average of 7,040 calls/day originated from portable phones issued to Floor brokers and RCMMs. An average of 2,109 calls/day were received on portable phones.

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additional five months ending on November 30, 2004); 50777 (December 1, 2004), 69 FR 71090 (December 8, 2004) (SR–NYSE–2004–67) (extending the Pilot for an additional four months ending March 31, 2005); 51464 (March 31, 2005), 70 FR 17746 (April 7, 2005) (SR–NYSE–2005–20) (extending the Pilot for an additional four months ending July 31, 2005); 52188 (August 1, 2005), 70 FR 46252 (August 9, 2005) (SR–NYSE–2005–53) (extending the Pilot for an additional four months ending January 31, 2006); 53277 (February 13, 2006), 71 FR 8877 (February 21, 2006) (SR–NYSE–2006–03) (extending the Pilot for an additional six months ending July 31, 2006); and 54276, note 5 *supra.* Also, since the inception, the Exchange has incorporated RCMMs into the Pilot and subsequently amended the Pilot to allow RCMMs to use an Exchange authorized and provided portable telephone on the Exchange Floor to call to and receive calls from their booths on the Floor. *See* Securities Exchange Act Release Nos. 53213 (February 2, 2006), 71 FR 7103 (February 10, 2006) (SR–NYSE–2005–80) and 54215 (July 26, 2006), 71 FR 43551 (August 1, 2006) (SR–NYSE–2006–51).

[9] *See* Securities Exchange Act Release No. 53277, note 8 *supra.*

[10] The Exchange has received records of incoming telephone calls from June 30, 2006, through December 31, 2006, for Floor brokers and RCMMs and will continue to receive monthly updates.

[11] Floor brokers receiving orders from the public over portable phones must be properly qualified to engage in such ''direct access'' business under Exchange Rules 342 and 345, among others. *See also* note 14, *infra.*

[12] Allowing RCMMs acting as Floor brokers to use portable phones would involve further discussions with the Commission and would be the subject of a separate filing with the Commission.

[13] *See* Securities Exchange Act Release No. 43689 (December 7, 2000), 65 FR 79145 (December 18, 2000) (SR–NYSE–98–25). *See also* Securities Exchange Act Release No. 44943 (October 16, 2001), 66 FR 53820 (October 24, 2001) (SR–NYSE–2001–39) (discussing certain exceptions to FESC, such as orders to offset an error, or a bona fide arbitrage, which may be entered within 60 seconds after a trade is executed).

[14] For more information regarding Exchange requirements for conducting a public business on the Exchange Floor, *see* Information Memos 01–41 (November 21, 2001), 01–18 (July 11, 2001) (available on *http://www.nyse.com/regulation/regulation.html*), and 91–25 (July 8, 1991). *See also* note 12 *supra.*

[15] *See* Securities Exchange Act Release No. 46560 (September 26, 2002), 67 FR 62088 (October 3, 2002) (SR–NYSE–00–31) (discussing restrictions on specialists' communications from the post).

[16] NYSE Rule 36.30 provides that, with the approval of the Exchange, a specialist unit may maintain a telephone line at its stock trading post location to the off-Floor offices of the specialist unit or the unit's clearing firm. Such telephone connection shall not be used for the purpose of transmitting to the Floor orders for the purchase or sale of securities but may be used to enter options or futures hedging orders through the unit's off-Floor office or the unit's clearing firm or through a member (on the Floor) of an options or futures exchange.

[17] *See* Securities Exchange Act Release No. 43493 (October 30, 2000), 65 FR 67022 (November 8, 2000) (SR–CBOE–00–04), cited by Securities Exchange Act Release No. 43836 (January 11, 2001), 66 FR 6727 (January 22, 2001) (discussing and approving the Chicago Board Options Exchange's and the Pacific Exchange's proposals to remove current prohibitions against Floor Brokers' use of cellular or cordless phones to make calls to persons located off the trading floor).

[18] This data includes both Floor brokers and RCMMs.

Of the calls originated from portable phones, an average of 3,958 calls/day were internal calls to the booth and 3,081 calls/day were external calls by RCMMs to the upstairs offices of their member organization and their clearing member organization and external calls of Floor brokers. Thus, approximately 56% of the calls originating from portable phones were internal calls to the booth by Floor brokers and RCMMs.

With regard to received calls, of the 2,109 average calls/days received, an average of 127 calls/day were external calls by RCMMs to the upstairs offices of their member organization and their clearing member organization and external calls of Floor brokers and an average of 1,982 calls/day were internal calls received from the booth. Thus, approximately 94% of all received calls were internally generated and 6% were external calls by RCMMs to the upstairs offices of their member organization and their clearing member organization and external calls of Floor brokers.

The Exchange believes that the Pilot appears to be successful in that there is a reasonable degree of usage of portable phones. During the period of June 30, 2006, through January 31, 2007, there have been no other regulatory, administrative or other technical problems identified with their usage. The Exchange further believes that the Pilot appears to facilitate communication on the Floor for both Floor brokers and RCMMs without any corresponding drawbacks. Therefore, the Exchange believes it is appropriate to extend the Pilot for an additional year, expiring on January 31, 2008.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [19] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The amendment to Rule 36 supports the mechanism of free and open markets by providing for increased means by which communications to and from the Floor of the Exchange may take place.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[19] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[22]

The Exchange requests that the Commission waive the 30-day operative period under Rule 19b–4(f)(6)(iii) of the Act.[23] The Exchange believes that the continuation of the Pilot is in the public interest as it will avoid inconvenience and interruption to the public. The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay and make this proposed rule change immediately effective.[24] The Commission believes that the waiver of the 30-day operative delay will allow the Exchange to continue, without interruption, the existing operation of its Pilot until January 31, 2008.

The Commission notes that proper surveillance is an essential component of any telephone access policy to an exchange trading floor. Surveillance procedures should help to ensure that Floor brokers and RCMMs use portable phones as authorized by NYSE Rule 36 and that orders are being handled in compliance with NYSE rules.[25] The Commission expects the Exchange to actively review these procedures and address any potential concerns that have arisen during the Pilot. In this regard, the Commission notes that the Exchange should address whether telephone records are adequate for surveillance purposes.

The Commission also requests that the Exchange report any problems, surveillance, or enforcement matters associated with the Floor brokers' and RCMMs' use of an Exchange authorized and provided portable telephone on the Exchange Floor. As stated in the Original Order, the NYSE should also address whether additional surveillance would be needed because of the derivative nature of the ETFs. Furthermore, in any future additional filings on the Pilot, the Commission would expect that the NYSE submit information documenting the usage of the phones, any problems that have occurred, including, among other things, any regulatory actions or concerns, and any advantages or disadvantages that have resulted.[26]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2007–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-NYSE–2007–05. This file number should be included on the subject line if e-mail is used. To help the

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on January 31, 2007, the date NYSE filed Amendment No. 1 to the proposed rule change. *See* 15 U.S.C. 78s(b)(3)(C).

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[25] *See* note 14 *supra* and accompanying text for other NYSE requirements that Floor brokers be properly qualified before doing public customer business.

[26] In any request for a permanent approval of the Pilot, the Commission would expect the information to distinguish between Floor brokers' and RCMMs' usage of the phones.

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSE–2007–05 and should be submitted on or before March 1, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–2085 Filed 2–7–07; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 5686]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Fulbright Student Program

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E–08–01.

Catalog of Federal Domestic Assistance Number: 19.400.

Key Dates:

Application Deadline: May 3, 2007.

Executive Summary: The Office of Academic Exchange Programs (ECA/A/E) of the Bureau of Educational and Cultural Affairs, U.S. Department of State announces an open competition for one or more assistance awards to provide administrative services for the Fulbright Student Program in Fiscal Year 2008. Public and private non-profit organizations or consortia of eligible organizations meeting the provisions described in Internal Revenue Code section 501(c)(3) may submit proposals to cooperate with the Bureau in the administration and implementation of one or more of the following program components:

- *For U.S. students:* the Fulbright U.S. Student Program.
- *For foreign students administered by world geographic region:* the Fulbright Foreign Student Program.
- *For foreign students administered globally:* the International Fulbright Science and Technology Award, the Fulbright Foreign Language Teaching Assistant Program, pre-academic training, orientation programs, and enrichment activities.

It is anticipated that the total amount of funding available for all FY 2008 administrative costs to support the program components listed above will be $10,000,000 and will involve management of 4,090 new students.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries . . .; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations . . . and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose

The Fulbright Program is the U.S. government's premier program for international academic exchange and one of our nation's most important investments in improving international relations between the U.S. and other countries through the development of future leaders in virtually every area of endeavor. It was created by the U.S. Congress after World War II to exchange U.S. and foreign students, scholars and teachers to provide them opportunities to experience firsthand the political, economic and cultural institutions in each other's countries and thus help establish a basis for international mutual understanding and peaceful interaction. It now extends to over 150 countries worldwide and awards approximately 7,000 new and renewal grants to American and foreign participants each year. The Fulbright Program focuses on leadership development and counts among its 270,000 alumni world leaders in every profession and field of endeavor.

A hallmark of the Fulbright Program is binationalism. The United States and foreign governments, U.S. and foreign educational and other public and private institutions are all partners in this exchange. Program priorities are developed between the U.S. and foreign partners and in many countries of the world, financial contributions from governments or public/private sources match or exceed those of the United States.

Administration of the Fulbright Program is programmatically and administratively complex. It must accommodate a variety of circumstances in every geographic region of the world and be responsive to and supportive of many different constituencies in the United States and abroad, each with its own sets of goals and concerns. The integrity of the Program requires maintenance of the highest and most consistent standards of academic and professional quality in the selection of candidates and the implementation of projects. While the Program is active in many countries, it is important that it maintain a single world-wide identity. Overall policy guidelines and selection criteria for all Fulbright programs are determined by the Presidentially appointed J. William Fulbright Foreign Scholarship Board, while responsibility for conducting the program is assigned to the Bureau of Educational and Cultural Affairs of the Department of State.

Description of the Fulbright Student Program

The Fulbright Student Program offers scholarships to recent U.S. and foreign college and university graduates, advanced graduate students including those pursuing doctoral degrees, and creative artists to study and conduct research abroad and in the United States. A basic premise of the Fulbright program remains the selection of all participants through an open and transparent merit-based competition.

U.S. Student Program

Only one cooperative agreement will be awarded for all administrative services for the Fulbright U.S. Student Program. Under the U.S. Fulbright program, graduating college seniors or

[27] 17 CFR 200.30–3(a)(12).

developing artists and professionals or graduate students who are U.S. citizens are awarded scholarships each year through a competitive process to study and undertake research at institutions in countries overseas. Students must hold a bachelor's degree, or its equivalent, before the start of the grant. Award opportunities for U.S. students are determined overseas by binational Fulbright commissions and U.S. embassies, in coordination with the Bureau of Educational and Cultural Affairs in Washington. In FY 2008, the Fulbright U.S. Student Program expects to send abroad approximately 1,400 U.S. students, developing professionals and artists to study and conduct research.

In addition to ''traditional'' research awards, candidates for awards under the U.S. student program may apply for Fulbright English Teaching Assistantships. Fulbright English Teaching Assistants (ETA) teach English language and conversation classes in secondary schools and universities abroad while simultaneously pursuing individual study and research plans.

Candidates may also apply for Fulbright Islamic Civilization Initiative awards. These awards are intended to enhance Americans' knowledge of Islam and Islamic culture through the Fulbright students' sharing of their overseas experience.

U.S. students applying for a Fulbright grant to a country targeted under the National Security Language Initiative may request an enhancement of their award to provide up to six months in-country language training prior to beginning their research project. This initiative includes Arabic, Chinese, Russian, Korean, and the Turkic, Indic and Persian languages.

Foreign Student Program

One or more grants will be awarded for administration of the Fulbright Foreign Student Program. Section II below contains detailed information on applying to administer all or parts of the Foreign Student Program.

Fulbright foreign student candidates are nominated through open, merit-based competitions in each participating country, conducted by a binational Fulbright commission or, in the absence of a commission, by the Public Affairs Section (PAS) of U.S. embassies. Scholarship opportunities for foreign students are determined through consultations between commissions or embassies and the Bureau similar to the process for the U.S. Student Program nominees. The Fulbright Scholarship Board makes the final selection of all Fulbright nominees.

The Fulbright Foreign Student Program expects to bring to this country approximately 2,685 new foreign students for study and research in the United States for FY 2008. This total includes new foreign students in the two activities listed immediately below. Applicants for this administrative award(s) should submit program proposals and budget projections for new FY 2008 students only. Awards to foreign students from prior years will be administered by the organizations currently administering the program.

In addition to the traditional foreign student program operating binationally in more than 150 countries, the Fulbright Foreign Student Program also includes two special activities that are competed and funded on a worldwide basis: the International Fulbright Science and Technology Award and the Fulbright Foreign Language Teaching Assistant Program.

The International Fulbright Science and Technology award (S&T) for outstanding foreign students is designed to be among the most prestigious international scholarships in science and technology. Approximately 40 awards will be funded in FY 2008 for Ph.D. study at a top U.S. academic institution in science, technology or engineering. Applicants will apply through Fulbright commissions or U.S. embassies in their country of citizenship. Awards will be made to candidates who demonstrate unique aptitude and innovation in scientific fields.

The Fulbright Foreign Language Teaching Assistant Program (FLTA) aims to strengthen foreign language instruction at U.S. educational institutions while providing young teachers or teacher trainees of English as a Foreign Language the opportunity to refine their teaching skills, increase their English language proficiency, and broaden their knowledge of American society and culture. The FLTA is another key component of the National Security Language Initiative. Fellows are placed for an academic year at a U.S. university where they teach their native language and enroll in at least two courses in U.S. studies or teaching methodology. Languages taught by FLTA participants may include Arabic, Bengali, Chinese, French, Dari, Gaelic, German, Hausa, Hindi, Indonesian, Italian, Korean, Malay, Mongolian, Pashto, Russian, Spanish, Swahili, Tagalog, Tajik, Thai, Turkish, Urdu, and Wolof. In FY 2008, the Bureau intends to fund 400 FLTAs of whom 300 will be in the strategic languages identified under the NSLI program.

Orientation and Enrichment Programs

The Bureau funds centrally a range of activities designed to deepen the mutual understanding foundation of the Fulbright Program. These activities are primarily related to orientation and enrichment. The activities include pre-academic English language and field of study programs in law and economics; three-day entry orientation programs designed to introduce Fulbright students to American academic life; and enrichment seminars for first year Fulbright foreign students.

Management of the Fulbright Student Program is shared among the Office of Academic Exchange Programs (ECA/A/E) of the U.S. Department of State in Washington, bilateral Fulbright commissions in 50 countries, Public Affairs Sections (PAS) of more than 100 U.S. embassies abroad, and cooperating private sector organizations in the United States. Grantee cooperating agencies must ensure full and proper identification of the Fulbright program with the U.S. government and the Department of State.

The Bureau will work cooperatively and closely with the recipient(s) of cooperative agreement award(s), provide guidance and maintain a regular dialogue on administrative and program issues and questions as they arise over the duration of the award.

Bureau activities and responsibilities for this program include:

(1) Participation in the design and direction of program activities;

(2) Approval of key personnel;

(3) Approval and input on program timelines, agendas and administrative procedures;

(4) Guidance in execution of all program components;

(5) Review and approval of all program publicity and recruitment materials;

(6) Approval of participating students, in cooperation with Fulbright commissions and U.S. embassies, subject to final selection by the Fulbright Board;

(7) Approval of changes to students' proposed academic field, academic program, or institution;

(8) Approval of decisions related to special circumstances or problems throughout the duration of program;

(9) Assistance with non-immigration status and other SEVIS-related issues;

(10) Assistance with participant emergencies;

(11) Liaison with relevant U.S. embassies, Fulbright commissions and country desk officers at the State Department.

Programs must conform with Bureau requirements and guidelines outlined in

the Solicitation Package which includes the Request for Grant Proposals (RFGP), the Project Objectives, Goals and Implementation (POGI) and the Proposal Submission Instructions (PSI).

Guidelines

Applicant organizations are requested to submit a narrative outlining a comprehensive strategy for the administration and implementation of the Fulbright Student Programs for which they are applying. The comprehensive program strategy should reflect a vision for the Program as a whole, interpreting the goals of the Fulbright Student Program with creativity, as well as providing innovative ideas and recommendations for the Program. The Bureau places a priority on insuring that the positive impact of the Fulbright Student Program is visible to the public in U.S. and campus communities and applicants should outline a plan to work with the media and other organizations to insure that the program and its scholarship awards receive appropriate publicity.

Program For U.S. Students

Services under this cooperative agreement will begin with the organization of nominating merit review panels for candidates for scholarships beginning in academic year 2008–2009 and include the recruitment of students for academic year 2009–2010.

Screening and Selection Process: Applicant organizations should present a plan to pre-screen for eligibility all electronic applications previously received from U.S. program applicants for academic year 2008–09 and convene national review panels composed of area and subject experts to determine which applicants will be nominated based upon proven merit, project proposal feasibility and factors that help present a truly national character in the pool, who will be recommended to PAS and Fulbright commissions overseas and to the J. William Fulbright Foreign Scholarship Board.

Program Management: Applicants should outline in their proposals plans for tracking and monitoring participants; development and maintenance of an electronic database on participants; and the preparation of statistical reports on the distribution of awards.

Post-Nomination Services: The narrative should include a description of how the cooperative agreement recipient(s) will inform successful candidates of their selection, and non-selected candidates and alternates of their status; provide award packages for students as required; respond to queries from participants; assist with pre-departure orientation as requested; electronically maintain data on participants; evaluate participants' health status and provide Bureau health insurance; monitor participants and provide participants' reports and analyses of these reports to the Bureau; and assist with emergencies.

Fiscal Management: Applicants should describe how the cooperating agency will manage electronic disbursement of payments to participants; provide quarterly reports on actual and projected expenditures; provide statistical, insurance and other reports; and monitor and audit internal functions and systems in accordance with U.S. government and Bureau guidelines.

Recruitment: Provide a comprehensive plan for the recruitment of U.S. students for all programs for academic year 2009–2010. Proposals should offer imaginative strategies for the recruitment of U.S. students and plans to enhance the visibility of the program, with particular focus on the recruitment of groups currently under-represented in the Fulbright program.

Publicity and Applications: The recipient of the cooperative agreement award will be responsible for establishing and maintaining a Web site for the U.S. student program which should include provision for electronically submitted applications. Please outline in detail your plans for the announcement of scholarship opportunities for academic year 2009–2010, application packets, an annual directory of student participants, and publicity for the program in the U.S. Proposals should delineate an outreach and recruitment strategy, with a strong focus on diversity, which might include written and electronic publications, professional networking, media relations, outreach to potential applicants, universities and others.

Programs for Foreign Students

Provide a plan for administration and implementation of the Foreign Student Program(s), indicating precisely the programs for which you are applying. Describe your capacities for administering the programs and provide detailed information on how you will perform the following duties:

Program Planning and Management: The award recipient(s) will be responsible for placement of foreign students for academic year 2008–09 at U.S. institutions, as needed; the development of significant U.S. institutional and private sector funding and cost sharing for grants; developing recommendations on participants' living allowances; producing an electronic participants database and special reports. Proposals should offer strategies for placement and plans to enhance the visibility of the foreign student program and may include other innovative activities. Organizations or consortia of organizations should describe overseas capacities to assist U.S. embassies and Fulbright commissions with publicity, and recruitment as specified in the attached Project, Objectives, Goals and Implementation (POGI), for academic year 2009–2010. Also detail any regional, exchange or other kinds of expertise that your organization would contribute to the effective administration of the program.

Selection: Discuss your plans for the development of a comprehensive Web site for foreign student applicants and participants; preparation and distribution of electronic application materials and selection guidelines to Fulbright commissions and PAS for academic year 2009–2010; receipt and review of recommended applications for academic year 2008–2009; making arrangements for required English language and other assessments; and preparation of participants' handbooks and orientation material. Your organization should demonstrate the capacity to both receive applications electronically from overseas and to transmit the applications electronically to the ECA/A/E regional branches and the Fulbright Scholarship Board.

Placement: Describe your organization's resources and capabilities for insuring the best and most appropriate placement of students at a full range of U.S. public and private institutions representing geographic and institutional diversity. Discuss in detail your organization's potential for securing co-funding from U.S. institutions to leverage U.S. and other sources of Fulbright funding. Detail your past success securing cost-sharing.

Supervision and Support: Describe how you will supervise and monitor foreign students including oversight of the following: enrollment in approved academic programs and academic performance; medical care and health insurance; Federal tax compliance; J visa status; renewal and extension of awards; and emergencies.

Fiscal Management: Outline your capacity to manage electronic stipend payments to participants; handle tax withholding, as required; provide reports on expenditures, and insurance; and monitor and audit internal functions and systems in accordance with U.S. government and Bureau guidelines.

English Language and Pre-Academic Training: One organization or consortium of organizations will organize and administer worldwide English language and pre-academic training programs and short-term entry orientation programs for selected Fulbright students enrolling for academic year 2008–2009, including designing criteria and estimating costs for these programs, placement and supervision of participating students, and evaluating and monitoring the programs.

Enrichment Activities: The organization or consortium of organizations administering the pre-academic and orientation programs will also administer up to eight enrichment seminars at locations around the nation for foreign students in all programs in academic year 2007–2008. The goal of these workshops is to provide students an in-depth understanding of American institutions, society and culture.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: 2008.

Approximate Total Funding: $10,000,000 pending availability of funds.

Approximate Number of Awards: One or more awards, in accordance with the following options:

Organizations or consortia of organizations may compete to administer the entire worldwide Fulbright Student program, comprising both the U.S. and foreign student components. Alternatively, single organizations or consortia of organizations may compete to administer the U.S. student program and/or the foreign student program based on the following guidelines:

For the U.S. Student Program, the Competition is open to:

—Single organizations or consortia of organizations wishing to administer the program worldwide.

For the Foreign Student Fulbright Program, the competition is open to:

—Single organizations or consortia of organizations wishing to administer the program worldwide or;

—Single organizations or consortia of organizations wishing to administer the foreign student program for one or more regions of the world. For the purposes of this competition, regions are defined as follows:

- Sub-Saharan Africa.
- Europe and Eurasia.
- East Asia and the Pacific.
- North Africa and the Middle East.
- South and Central Asia.
- Western Hemisphere.

Proposals must include plans to administer the Fulbright Foreign Student Program in all of the countries within a region where there currently is a program. A complete list of country programs in each region is provided in the Project Objectives, Goals and Implementation (POGI) package. Any proposal that includes countries not listed in the POGI may be declared technically ineligible.

Organizations or consortia of organizations bidding to administer the Foreign Student Fulbright Program in two or more regions must demonstrate the capacity to administer the centrally funded global foreign student programs and enrichment activities including the Fulbright Foreign Language Assistant Program, the Fulbright International Science and Technology Awards, English language and pre-academic programs, short-term orientation programs, and at least eight 3–4 day enrichment programs.

Consortia wishing to administer the worldwide U.S. Fulbright Student Program or the worldwide foreign student program should designate one organization to be the recipient of the cooperative agreement award. Applications proposing administration of the Program by a consortium should provide a detailed description of arrangements for cooperative work among the partners and between the partners and the U.S. and overseas academic communities, bilateral commissions and other entities.

The Bureau reserves the right to reduce, revise or increase proposal budgets in accordance with the needs of the program and availability of funds. In addition, it reserves the right to accept proposals in whole or in part and make an award or awards in accordance with the best interests of the Fulbright Student Program.

Anticipated Award Date: Pending availability of funds, October 1, 2007.

Anticipated Project Completion Date: September 30, 2008.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew the grant(s) for a period of not less than four additional fiscal years, before openly competing the program again. The Bureau reserves the right to renew the award(s) beyond that period.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations or consortia of institutions meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

Consortia of eligible organizations applying for grants should designate one organization to be the recipient of the cooperative agreement award. Applications proposing a consortium should provide a detailed description of the responsibilities of each partner organization and arrangements for cooperative work among the partners and between the partners and overseas academic communities, binational commissions, PAS and other entities responsible for the Fulbright program.

III.2. Cost Sharing or Matching Funds: The Bureau anticipates that proposals will include significant amounts of cost-sharing in support of the Fulbright Student Program, and encourages applicants to provide maximum levels of funding in support of this initiative.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one or more cooperative agreement awards in an amount over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants

until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package:

Please contact the Office of Academic Exchange Programs, ECA/A/E, Room 234, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, e-mail: *fulbright@state.gov*, *telephone:* 202–453–8135 and *fax number:* 202–453–8125, to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/E–08–01 when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. The mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document contain additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa.

The Bureau of Educational and Cultural Affairs places the highest emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements. The Grantee will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, *Telephone:* (202) 203–5029, *FAX:* (202) 453–8640.

Please refer to Solicitation Package for further information.

IV.3d.2 Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other instrument plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will be able to respond to key evaluation questions, including participant satisfaction with the program, learning as a result of the program, and anticipated changes in behavior as a result of the program. The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

We encourage you to assess the following three levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills,

and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Anticipated Participant behavior, anticipated actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for: overall program management, staffing, coordination with ECA and with U.S. and foreign universities, Fulbright commissions and PAS of U.S. embassies. Provide a staffing plan which outlines the responsibilities of each staff person and explains which staff members will be accountable for each program responsibility. Whenever possible, streamline administrative processes.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive line item administrative budget for the entire program or the specific portion of the program they are applying to administer. It is anticipated that funding for the cooperative agreement award(s) for program administration for all new Fulbright students will be approximately $10,000,000. Pending availability of FY 2008 funds, it is anticipated that most of the resources will come from the FY 2008 Educational and Cultural Exchange Programs Appropriation. However, it is anticipated that a total of $750,000 will be transferred to the Bureau from Economic Support Funds and other resources to administer programs for approximately 200 Pakistani students and approximately 25 Indonesian students.

IV.3e.2. Allowable costs and additional budget guidance are outlined in detail in the POGI document. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3F. Application Deadline and Methods of Submission:

Application Deadline Date: May 3, 2007.

Reference Number: ECA/A/E–08–01.

Methods of Submission:

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) electronically through *http://www.grants.gov*.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and 10 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, *Ref.:* ECA/A/E–08–01. Program Management, ECA/EX/PM, Room 534. 301 4th Street, SW., Washington, DC 20547.

IV.3f.2.—Submitting Electronic Applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*). Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov. Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support,

Contact Center Phone: 800–518–4726,

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time,

E-mail: support@grants.gov.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as Public Affairs Sections overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal

Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the program idea: Proposals should display an understanding of and respect for the goals and distinguished traditions of the Fulbright program, as reflected in the requirements and priorities of this RFGP. Proposals should demonstrate a commitment to excellence and creativity in the implementation and management of this program, including the recruitment of U.S. students, quality of preacademic and enrichment workshops, and placement of foreign students.

2. Program planning: Proposals should respond precisely to the planning requirements outlined in the RFGP. Planning should demonstrate substantive rigor. A detailed agenda and relevant work plan, including a timeline, should demonstrate feasibility and the applicant's logistical capacity to implement the program.

3. *Ability to achieve program objectives:* Proposals should demonstrate clearly how the applicant will fulfill the program's objectives and implement plans, while demonstrating innovation and a commitment to academic excellence. Proposals should demonstrate a capacity for flexibility in the management of the program.

4. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve program goals. Applicants should demonstrate established links to institutions of higher education in the U.S and knowledge of the overseas educational environment, particularly an awareness of conditions in societies and educational institutions outside the United States as they apply to academic exchange programs. Applicants should demonstrate prior experience or the capacity to negotiate significant cost savings for foreign students from American institutions of higher education. Applicants should also demonstrate their capacity to provide an information management/database system that meets program requirements, is compatible with the Bureau's systems, and provides for electronic applications, electronic data storage, and electronic payment of stipends.

5. Institution's Record/Ability: Proposals should demonstrate an institutional record of managing successful exchange programs, including significant experience in developing and administering international academic exchange programs, sound fiscal management and full compliance with all reporting requirements for past Bureau cooperative agreements as determined by Bureau Grants Staff. In its review of proposals, the Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (recruitment and selection of participants, academic placements and program evaluation) and program content (orientation and enrichment programs, program meetings, resource materials). Proposals should articulate a diversity plan, not just a statement of compliance.

7. Project Evaluation: Proposals should include a plan to evaluate the program's success, both as the activities unfold and at the end of the program. The Bureau recommends that proposals include a draft survey questionnaire or other instrument plus description of a methodology to use to link outcomes to original objectives.

8. Cost-effectiveness: The overhead and administrative components of the proposal, including salaries, should be kept as low as possible while adequate and appropriate to provide the required services. Proposals should document plans to realize cost-savings and other efficiencies through use of technology, administrative streamlining, and other management techniques.

9. Cost-sharing: Proposals should demonstrate maximum cost-sharing. Preference will be given to proposals which demonstrate innovative approaches to leveraging of funds, and other sharing of costs.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus two copies of the following reports:

A final program and financial report no more than 90 days after the expiration of the award; quarterly financial reports, annual program reports and ad hoc program reports as requested by ECA/A/E.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Mr. Matthew

McMahon, Office of Academic Exchange Programs, ECA/A/E, Room 234, ECA/A/E–08–01, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, *e-mail: McMahonMP@state.gov, phone:* (202) 453–8135, and *fax:* (202) 453–8126.

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/E–08–01.

Please read the complete announcement before sending inquiries or submitting proposals. All inquiries about the RFGP or any aspect of the Fulbright Student Program should be submitted in writing via e-mail to Mr. McMahon. Any questions or requests for information from overseas Fulbright commissions or Public Affairs Sections of U.S. embassies should be submitted in writing via e-mail to Mr. McMahon for transmission to those overseas offices. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: January 31, 2007.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–2107 Filed 2–7–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2007–04]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 28, 2007.

ADDRESSES: Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–26838 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Frances Shaver, (202–267–9681), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591–3356 or Tyneka Thomas, (202–267–7626), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591–3356.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on January 31, 2007.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2007–26838.
Petitioner: Era Helicopters, LLC.
Section of 14 CFR Affected: §§ 21.197(c)(2) and 21.199(a).
Description of Relief Sought: To allow Era Helicopters, LLC to write special flight permits with continuous authorization to conduct ferry flights on all of their aircraft maintained under § 135.411(a)(1).

[FR Doc. 07–546 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2007–05]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption under part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 28, 2007.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–2005–22336] by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–

401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Tyneka L. Thomas (202) 267–7626, or Frances Shaver (202) 267–9681, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85 and 11.91.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2006–25902.

Petitioner: Experimental Aircraft Association.

Section of 14 CFR Affected: 14 CFR 61.3(a)(1), 61.31(i), and 61.325.

Description of Relief Sought: To permit Experimental Aircraft Association to allow owners and operators of single-place ultralight vehicles to take their initial practical evaluations without being a pilot in command or having the endorsement required by §§ 61.31 or 61.325.

[FR Doc. E7–2048 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–20739]

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to renew an information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on November 28, 2006. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by March 12, 2007

ADDRESSES: You may send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2007–20739.

FOR FURTHER INFORMATION CONTACT: Vickie Anderson, 202–366–1607, Office of Civil Rights, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Federal-Aid Highway Construction Equal Employment Opportunity.

OMB-Control #: 2125–0019.

Background: Title 23, Part 140(a), requires the FHWA to ensure equal opportunity regarding contractors' employment practices on Federal-aid highway projects. To carry out this requirement, the contractors must submit to the State Transportation Agencies (STAs) on all work being performed on Federal-aid contracts during the month of July, a report on its employment workforce data. This report provides the employment workforce data on these contracts and includes the number of minorities, women, and non-minorities in specific highway construction job categories. This information is reported on Form PR–1391, Federal-Aid Highway Construction Contractors Summary of Employment Data. The statute also requires the STAs to submit a report to the FHWA summarizing the data entered on the PR–1391 forms. This summary data is provided on Form PR–1392, Federal-Aid Highway Construction Contractors Summary of Employment Data. The STAs and FHWA use this data to identify patterns and trends of employment in the highway construction industry, and to determine the adequacy and impact of the STA's and FHWA's contract compliance and on-the-job (OJT) training programs. The STAs use this information to monitor the contractors-employment and training of minorities and women in the traditional highway construction crafts. Additionally, the data is used by FHWA to provide summarization, trend analyses to Congress, DOT, and FHWA officials as well as others who request information relating to the Federal-aid highway construction EEO program. The information is also used in making decisions regarding resource allocation, program emphasis, marketing and promotion activities, training, and compliance efforts.

Respondents: 7,900 annual respondents for form PR–1391, and 52 STAs annual respondents for Form PR–1392, total of 7,952.

Frequency: Annually.

Estimated Average Burden per Response: FHWA estimates it takes 30 minutes for Federal-aid contractors to complete and submit Form PR–1391 and 8 hours for STAs to complete and submit Form PR–1392. FHWA has recently established a 1391 Company Wide Reporting Data Collection Program that has significantly reduced the amount of paperwork associated with the reporting of Federal-aid highway employment data. This process enables contractors to submit one consolidated form PR–1391, inclusive of all Federal-aid projects rather than submitting multiple PR–1391 forms for each project.

Estimated Total Amount Burden Hours: Form PR–1391—3,950 hours per year; Form PR–1392—416 hours per year, total of 4,366 hours annually.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: February 2, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–2057 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Project in Missouri

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, Interstate Route I–29/I–35/U.S. Route 71 Corridor, Paseo Missouri River Bridge, from approximately 0.5 miles north of Missouri Route 210/Armour

Road south to the northwest corner of the central business district loop in downtown Kansas City, in the Counties of Jackson and Clay, State of Missouri. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 7, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Ms. Peggy Casey, Environmental Projects Engineer, FHWA Missouri Division Office, 3220 West Edgewood, Suite H, Jefferson City, MO 65109, Telephone: (573) 638–2620, Office Hours 7:30 a.m. to 4:30 p.m. Central Standard Time, e-mail: *peggy.casey@fhwa.dot.gov*. For Missouri Department of Transportation: Mr. Kevin Keith, Chief Engineer, Missouri Department of Transportation, P.O. Box 270, Jefferson City, MO 65102, Telephone: (573) 751–2803, Office Hours 7:30 a.m. to 4 p.m. Central Standard Time, e-mail: *kevin.keith@modot.mo.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of Missouri. The project's selected alternative consists of reconstructing and widening the existing I–29/I–35 corridor roadway from the northern terminus approximately 0.5 miles north of Missouri Route 210/Armour Road to the southern terminus, a connection with the existing CBD freeway loop that encompasses downtown Kansas City. Included is the rehabilitation of the existing Paseo Bridge crossing which currently carries I–29/I–35/U.S. Route 71 over the Missouri River and constructing a new companion bridge or replacing the existing bridge with an entirely new structure or structures. This includes modifying the corridor's connection to the CBD loop and the connection of the Broadway Extension (U.S. Route 169) with the downtown street and freeway loop system. The northern side of the CBD loop designated as I–35/I–70/U.S. Routes 24/40 is included in the selected alternative. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project (FHWA–MO–EIS–06–01–F), approved on November 8, 2006; in the FHWA Record of Decision (ROD) issued on January 12, 2007; and in other documents in the FHWA project records. The FEIS, ROD, and other project records are available by contacting FHWA or the Missouri Department of Transportation at the addresses provided above. The FHWA FEIS and ROD can be viewed and downloaded from the project Web site *http://www.modot.mo.gov/kansascity/major_projects/I–29,I–35%20EIS%20Location%20Study.htm*; the FEIS can be viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4351; Federal-Aid Highway Act, 23 U.S.C. 109 and 23 U.S.C. 128.

2. *Air:* Clean Air Act, 42 U.S.C. 7401–7671q.

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

4. *Wildlife:* Endangered Species Act, 12 U.S.C. 1531–1544 and Section 1536; Fish and Wildlife Coordination Act, 16 U.S.C. 661–667(d); Migratory Bird Treaty Act, 16 U.S.C. 703–712.

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470(f) et seq; Archaeological Resource Protection Act of 1977, 16 U.S.C. 470(aa)-470(ll); Archaeological and Historic Preservation Act, 16 U.S.C. 469–469(c); Native American Grave Protection and Repatriation Act (NAGPRA), 23 U.S.C. 3001–3013.

6. *Social and Economic:* Civil Rights Act of 1964, 42 U.S.C. 200(d)(1); American Indian Religious Freedom Act, 42 U.S.C. 1966; Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201–4209.

7. *Wetlands and Water Resources:* Clean Water Act, Section 404, Section 401, Section 319, 33 U.S.C. 1251–1377; Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401–406; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; Wetlands Mitigation, 23 U.S.C. 103(b)(6)(M) and 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O.12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: February 1, 2007.

Peggy J. Casey,

Environmental Project Engineer, Jefferson City.

[FR Doc. E7–2074 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Availability of Grant Program Funds for Commercial Vehicle Information Systems and Networks Program

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: FMCSA announces the availability of Commercial Vehicle Information Systems and Networks (CVISN) grant funding as authorized by Section 4126 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). This is a discretionary grant program that provides funding for States to deploy, operate, and maintain elements of their CVISN program, including commercial vehicle, commercial driver, and carrier-specific information systems and networks. The agency in each State designated as the primary agency responsible for the development, implementation, and maintenance of the CVISN-related systems is eligible to apply for grant funding. To apply for funding, applicants must register with the grants.gov Web site (*http://www.grants.gov/applicants/get_registered.jsp*) and submit an application in accordance with instructions provided. Applications for

grant funding must be submitted electronically to FMCSA through the grants.gov Web site.

Section 4126 of SAFETEA–LU distinguishes between two types of CVISN projects: Core and Expanded. To be eligible for funding of Core CVISN deployment project(s), a State must have its most current Core CVISN Program Plan and Top-Level Design approved by FMCSA and the proposed project(s) should be consistent with its approved Core CVISN Program Plan and Top-Level Design.

A State may also apply for funds to prepare an Expanded CVISN Program Plan and Top-Level Design if FMCSA acknowledged the staff as having completed Core CVISN deployment. In order to be eligible for funding of any Expanded CVISN deployment project(s), a State must have its most current Expanded CVISN Program Plan and Top-Level Design approved by FMCSA and any proposed Expanded CVISN project(s) should be consistent with its Expanded CVISN Program Plan and Top-Level Design.

DATES: FMCSA will initially consider funding for applications submitted by March 31, 2007 by qualified applicants. If additional funding remains available, applications submitted after March 31, 2007 will be considered on a case-by-case basis. A portion of the funds is available for allocation as limited by the Continuing Resolution (Pub. L. 109–383). The remainder of funds will be available when fiscal year 2007 appropriations legislation is passed and signed into law.

FOR FURTHER INFORMATION CONTACT: Visit grants.gov. Information on the grant, application process, and additional contact information is available at that Web site.

General information about the CVISN grant is available in The Catalog of Federal Domestic Assistance (CFDA) which can be found on the Internet at *http://www.cfda.gov*. The CFDA number for CVISN is 20.237.

You also may contact Mr. Quon Kwan, Federal Motor Carrier Safety Administration, Office of Research and Analysis, Division of Technology, e-mail: *quon.kwan@dot.gov*, telephone: 202–385–2389, 400 Virginia Avenue, SW., Suite 600, Washington, DC 20024. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: January 31, 2007.

John H. Hill,

Administrator.

[FR Doc. E7–2055 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Recall Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of a petition for an investigation into alleged defects in Firestone Steeltex tires.

SUMMARY: This notice denies a petition submitted to NHTSA under 49 U.S.C. 30162 by the Law Offices of Lisoni & Lisoni of Pasadena, California. The petition requests that the agency open a safety-related defect investigation into alleged defects in Firestone Steeltex tires manufactured from 1999 through 2005 in four Firestone plants located in Joliette, Canada; Aiken, South Carolina; Decatur, Illinois; and Cuernavaca, Mexico. After review of the information submitted by the petitioners and other pertinent information, NHTSA has concluded that further expenditure of the agency's investigative resources on the issues raised by the petition does not appear warranted.

FOR FURTHER INFORMATION CONTACT: Mr. Derek Rinehardt, Safety Defects Engineer, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–3642.

SUPPLEMENTARY INFORMATION:

Petition Review—DP06–001

1.0 Introduction

On May 1, 2006, the Law Offices of Lisoni & Lisoni (petitioners) submitted a petition requesting that the Office of Defects Investigation (ODI) open an investigation of Firestone Steeltex tires pursuant to 49 U.S.C. 30162, and issue a recall order pursuant to 49 U.S.C. 30118(b), 30119 and 30120. This petition was denominated as DP06–001. Petitioners submitted some additional information on June 23, 2006.

Under 49 U.S.C. 30166, NHTSA has the authority to conduct an investigation to consider whether a motor vehicle or equipment contains a safety-related defect. 49 U.S.C. 30118(b) authorizes NHTSA to make a determination that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety. If NHTSA makes such a determination, NHTSA issues an order directing the manufacturer of the vehicle or equipment to give notification of the defect to the owners, purchasers and dealers and to remedy the defect under 49 U.S.C. 30120. Collectively, the manufacturer's notice and provision of a remedy under section 30120 are known as a recall.

ODI has an ongoing review process in which it reviews consumer complaints and data submitted by manufacturers in an effort to identify defect trends. If this ongoing review of information were to reveal possible defect trends in Steeltex or any other tires, ODI would open an investigation, as it does on scores of vehicle and equipment issues every year when the available evidence so warrants. In addition, any interested person may, under section 30162, file a petition requesting that NHTSA begin a proceeding to decide whether to issue an order under section 30118.

As a practical matter, the granting of a petition under section 30162 begins an investigation. An investigation may or may not result in a recall. In determining whether to grant or deny a petition under 30162, NHTSA conducts a technical review of the petition. 49 CFR 552.6. The technical review may consist of an analysis of the material submitted together with the information already in the possession of the agency. It may also include the collection of additional information. NHTSA has discretion in deciding which matters are worthy of investigation and possible recall order. In addition to the technical merits of the petition, NHTSA may consider additional factors, such as the allocation of agency resources, agency priorities, and the likelihood of success in litigation that might arise from the order sought by the petitioner. 49 CFR 552.8. As noted above, if NHTSA grants the petition, an investigation is commenced to determine the existence of the defect. 49 CFR 552.9.

Motor vehicle tires are items of equipment subject to a recall order under section 30118 if they contain a defect related to motor vehicle safety. Were NHTSA to issue an order directing the recall of tires under that section, the agency would have the burden of demonstrating the existence of the defect and that the defect is safety-related. One possible indicator of a defective tire is an excessively high rate of failures compared to other, comparable tire lines. However, not every tire failure is the result of a defect in the tire. Tires may fail for a variety of reasons, such as improper maintenance and impact damage from road hazards. Moreover, because not all tires with the same broad label (*e.g.*, ''Steeltex'') are constructed in exactly the same way or designed for the same function, NHTSA often focuses on whether any specific grouping of similarly constructed tires (e.g., distinguished by tire line, tire size, and/

or date and location of manufacture) is defective. DP06–001 is a broad and sweeping petition that covers a number of different tires. NHTSA could not base a recall order merely on a generalized allegation that an enormous population of tires is defective. Instead, NHTSA must carefully review the details underlying such an allegation to determine whether the facts provide a basis for agency action.

ODI began a technical review of DP06–001 on May 24, 2006. During the review, ODI:

- Analyzed data within its own Vehicle Owners Questionnaire (VOQ) database;
- Analyzed early warning reporting (EWR) data submitted by all tire manufacturers since December 2003;
- Requested and analyzed data pertaining to Steeltex tire performance from Bridgestone-Firestone North American Tire, LLC (Firestone);
- Analyzed the petition contents and additional data requested from the petitioners;
- Reviewed prior petitions submitted by petitioners: DP02–011, DP04–004 and DP04–005.

Based on this technical review, NHTSA has concluded that the petition should be denied.

2.0 Background

DP06–001 is the fourth petition submitted by the petitioners asking the agency to open a defect investigation into Steeltex tires. In addition to the four petitions from the petitioners, the agency has reviewed Steeltex tire data in two other instances, as discussed in more detail below.

The scope of the current petition involves over 23 and a half million Steeltex tires in three load ranges (C, D, and E), three tire lines (all terrain (A/T) and all season (R4S and R4SII)), and in twelve sizes [1] manufactured since 1999 at four plants (Joliette, Canada; Aiken, South Carolina; Decatur, Illinois and Cuernavaca, Mexico). Steeltex is a model name applied to the majority of light truck radial tires that Firestone sold beginning in about 1990. Steeltex tires have been the primary original equipment (OE) tire on many of the largest passenger vans, sport utility vehicles (SUVs), pickup trucks, and ''cutaways'' (including motor homes and ambulances) sold since 1990. However, they are no longer in production.[2]

Load Range E (LRE) tires represent the largest population of Steeltex tires manufactured from 1999 through 2005—accounting for approximately eighty-three percent of the Steeltex tires produced. LRE tires may be inflated up to 80 psi and can carry between 2,500 lbs and 3,400 lbs per tire. LRE tires have the highest load rating among the three load ranges of Steeltex tires. LRE tires are also used in more diverse applications and operate under more severe duty conditions and higher loads than the lesser load range tires (Load Range C and Load Range D).

Steeltex tires are light truck radial (LTR) tires comprised of two polyester body plies and two steel belts. LTR tires are distinguished from passenger radial (PSR) tires by having heavier cord gauges, thicker rubber plies, deeper tread depths, and substantially higher inflation pressures. Within the population of Steeltex tires there exists a variety of designs that include obvious differences such as tread pattern, sidewall configuration, and tire size, as well as differences in internal construction such as cord configuration, cord gauge, cord angle, and mold shape.

ODI initiated its first investigation (PE00–040) of Steeltex tires on September 9, 2000. PE00–040 was closed on April 9, 2002. This investigation revealed that Steeltex tires displayed failure rates comparable to and, in some instances, lower than those of LTR tires sold by other major manufacturers. ODI also noted that the vehicle type had the largest influence on the likelihood of a tire failure causing a vehicle crash.

ODI revisited the issue of Steeltex tire failures during its review of the petitioners' November 2002 petition (DP02–011). Petitioners alleged that all Steeltex tires manufactured since 1990 were defective, that ODI had undercounted VOQs in its database, and that Firestone had deliberately understated its failure figures. ODI denied DP02–011after finding that VOQ and Firestone data had changed little since the closing of PE00–040 and that no specific defect trend was identified. *See* 68 FR 35941 (June 17, 2003).

Based in part on EWR data, Firestone announced on February 26, 2004, that it would recall [3] approximately 487,000 LT265/75R16 Load Range D Steeltex A/T tires manufactured primarily for OE fitment on MY 2000–2003 Ford Excursion SUVs. At that time, EWR and other data did not indicate a defect trend in Steeltex tires outside of this recalled population.

ODI again revisited the subject of Steeltex tire failures in May of 2004 after petitioners filed two more defect petitions (DP04–004 and DP04–005). The petitions alleged that all Steeltex tires manufactured since 1995 were defective (DP04–004) and that Steeltex tires installed as OE on ambulances pose an unacceptable safety risk to Emergency Medical Service (EMS) operators (DP04–005). NHTSA issued a notice denying both petitions on September 29, 2004. *See* 69 FR 58221. NHTSA concluded that no defect trend existed as the Steeltex tires' failure rates did not stand out from those of their peers.

3.0 Petition Allegations—DP06–001

Overall, petitioners' allegations in DP06–001 are not new—they primarily restate assertions from DP04–004 and DP04–005. As in those prior petitions, the petitioners do not point to a particular defect or failure mode. Rather, they contend that various failures lead to the conclusion that the entire population of subject tires is generally defective. Further, petitioners devote nearly the entire May 2006 petition attempting to rebut particular points made in NHTSA's September 29, 2004 notice denying their prior petitions (DP04–004 and DP04–005). One noticeable difference between their prior petitions and DP06–001 is that petitioners have narrowed the scope of DP06–001. Petitioners now ask the agency to open a defect investigation into Steeltex R4S, R4S II and A/T tires manufactured from 1999 to 2005 in Firestone's Decatur, Aiken, Joliette and Mexico manufacturing plants, excluding tires previously recalled under recall 04T–003. Even with this limitation, there are more than 23 million tires within the scope of the petition.

The petitioners provide limited information in support of DP06–001.[4] The petition includes a list of 57 fatalities and 161 injuries allegedly resulting from ''serious'' design and manufacturing defects in the subject tires. The total includes a composite number of fatalities and injuries from a list of incidents compiled by the petitioners (non-VOQ incidents) and those that petitioners identified from VOQs submitted to NHTSA. As explained below, ODI's review of these allegations revealed numerous

[1] The twelve tire sizes are: 7.00R15LT, 7.50R16LT, 8.00R16.5LT, 8.75R16.5LT, 9.50R16.5LT, LT215/75R15, LT215/85R16, LT225/75R16, LT235/75R15, LT235/85R16, LT245/75R16, LT265/75R16.

[2] Firestone phased out the production of the various Steeltex tire lines between 2004 and 2005.

[3] NHTSA Recall # 04T–003.

[4] Petitioners provided two submissions to the agency. First, on May 1, 2006, they submitted materials with their petition. Second, on June 23, 2006, they submitted a response to ODI's request for more information.

inconsistencies and indicated that the vast majority of the alleged deaths and injuries were not within the scope of this petition.

On May 25, 2006, ODI requested more information detailing the specific failure modes and specific descriptions of all defect conditions alleged by the petitioners. The petitioners' June 23, 2006 response noted that an earlier list of supposedly relevant incidents submitted in March 2003 should be disregarded. However, the June 23, 2006 letter largely restated the information provided in the March 2003 letter, which was a supplement to their initial petition, DP02–011. A limited number of new alleged incidents were reported by the petitioners in their June 23, 2006 letter, but several did not fall within the scope of the current petition.[5] Petitioners said in that letter that they would provide additional documentation of several of the deaths and injuries but, as of this writing, have not done so.

As in prior petitions, the petitioners refer to Firestone's mid-1990s C95 cost reduction program[6] to support their contention that tire quality degraded, causing numerous defects with Steeltex tires. Petitioners did not provide any new evidence supporting their contention that implementation of the C95 program degraded manufacturing quality at the four Firestone plants identified in their petition. Firestone contends that many of the recommendations in the C95 program were never implemented and that the changes that were implemented did not have any adverse effect on tire performance. ODI did not find any evidence that would link the C95 cost reduction program to any defect in Steeltex tires.

4.0 DP06–001 Analysis

4.1 Information Submitted by Petitioners

Petitioners' central allegation in DP06–001 is that Steeltex tires have caused 57 deaths and 161 injuries since 1999. ODI has carefully reviewed the list to verify the petitioners' allegations and to determine which of the alleged deaths and injuries are actually relevant to the tires that are the subject of the petition and, of those, which had not previously been considered by NHTSA in connection with the petitioners' previous petitions. Only by sorting out which allegations are within the scope of the present petition can we determine whether that petition provides a basis for the requested action.

The petitioners' list of deaths and injuries includes multiple duplicate incidents[7], incidents that did not involve a tire failure[8], incidents involving tires not manufactured by Firestone[9], incidents involving tires manufactured prior to 1999[10], incidents involving tires that have been previously recalled under recall number 04T–003[11], and incidents allegedly involving injuries that were determined to in fact not involve any injuries.[12]

Additionally, petitioners overstate the number of relevant complaints and related deaths and injuries in ODI's VOQ database. They cite to one VOQ (10007251) that allegedly documents 18 fatalities and 27 injuries associated with Steeltex tire failures. In a press release submitted to the agency on May 2, 2006, the petitioners state that this VOQ is ''perhaps the most shocking'' of the complaints to NHTSA and that it ''documents a tire tread belt failure resulting in eighteen deaths and twenty-seven injuries''. Actually this VOQ does not document an incident where a single tread belt failure resulted in eighteen deaths and twenty-seven injuries. The VOQ was previously submitted by petitioners in March 2003 and consists of a compilation of deaths and injuries alleged by the petitioners to have occurred in several different incidents. ODI's analysis of the incidents listed in this VOQ found that many of the incidents could not be validated, including some incidents that involved vehicles that would not normally be fitted with light truck radial tires as well as some that involved Steeltex tires outside the scope of the petition (*i.e.*, prior to 1999). ODI confirmed that only three incidents (three injuries) alleged by VOQ 10007251 were within the scope of DP06–001. When ODI requested additional information about the March 2003 submission, the petitioners indicated that it should be ignored because it was superseded by DP06–001.

When all of the unrelated incidents and incidents associated with tires that are not within the scope of the petition are removed from the list submitted by petitioners, what remains are allegations of 6 fatalities and 43 injuries occurring over a period of six years. When, based on ODI's own research, data from Firestone and ODI were added, the totals were 19 fatalities and 209 injuries involving the approximately 23 million tires within the scope of DP06–001. As discussed above, these data include all tire-related crashes resulting in death or injury irrespective of whether a defect was identified in the tire.

Contrary to the petition's assertion of an increasing trend in such severe crashes, the data show that the trend of crashes involving deaths and injuries involving Steeltex tires is actually declining, with 82 percent fewer in 2005 than in 2003. Just 5 of the fatalities and 23 of the injuries occurred in the two years since ODI denied DP04–004 and DP04–005 from the petitioners in 2004.

4.2 VOQs Since the Denial of DP04–004 and DP04–005

In order to appropriately analyze DP06–001, ODI conducted a broad search of its VOQ database for any Steeltex tire-related complaints received since the September 29, 2004 denial of DP04–004 and DP04–005. Since the denial of those petitions, ODI has received 131 VOQs alleging a failure of a Steeltex tire. Forty-two VOQs were associated with tires that did not fall within the scope of DP06–001. Fifty-two

[5] For example, the petitioners list an incident from June 30, 2002, involving 5 individuals (three fatalities and two injuries). The incident was determined to involve Michelin tires, not Firestone tires.

[6] The C95 program was a Firestone program designed to improve manufacturing efficiencies and productivity at its manufacturing plants, as noted in detail in prior petitions (DP04–004 and DP04–005). Information concerning C95 was submitted by the petitioners to ODI in April 2003 during ODI's technical review of DP02–011. The documents submitted included a list of 153 potential cost-reduction recommendations.

[7] For example, the petitioners counted separately three VOQs (10095168, 10090258 and 10098938) that were related to the same incident alleging an injury. In addition, the subject tire was manufactured in 1997, which is outside the scope of the petition. Also, the petitioners list VOQ 555477 as a unique incident but that was a duplicate of VOQ 10002751.

[8] For example, five firefighters were counted in the fifty-seven fatalities alleged by the petitioners to be a result of a Steeltex tire failure. However, published reports indicate that the incident was caused by driver error (the driver was found guilty of careless driving), not a tire failure. Also, petitioners count an injury reported through VOQ 8000804, which cites engine stall, not a tire failure.

[9] For example: (a) the petitioners included four injuries associated with VOQ 560738, although the subject tire of the incident was determined to be a Goodyear Wrangler Radial LT245/75R16, and (b) one incident from the petitioners' list involving three fatalities and two injuries was determined to involve a Michelin tire.

[10] For example, petitioners included: (a) four alleged injuries associated with VOQ 865772, which references a tire manufactured in 1997; and (b) one injury alleged in VOQ 868962 that references an incident with a date (February 12, 1994) that is not within the scope of the petition.

[11] For example: (a) an incident from the petitioners' list involving a 2000 Ford Excursion alleging five serious injuries was determined to involve a tire that fell within the scope of recall 04T–003; and (b) the petitioners counted four injuries associated with VOQ 10060714, although the tires fell within the scope of the recall 04T–003.

[12] For example: (a) the petitioners counted five injuries associated with VOQ 748712, although the VOQ's narrative states ''luckily, no one was injured''; and (b) the petitioners counted one injury associated with VOQ 10146790, although the VOQ notes ''0 injuries and 0 fatalities''.

VOQs alleged Steeltex tire failures, but did not provide sufficient information in the VOQ to determine whether the tire fell within the scope of this petition.[13]

Thirty-seven VOQs received since the closure of DP04–004 and DP04–005 appeared to be within the scope of the present petition. However, of the 37 VOQs, 14 involved tires that were within the population of Steeltex tires recalled in 04T–003. Those previously recalled tires are not within the scope of this petition. Eliminating the 14 complaints for tires that have been recalled leaves 23 complaints that ODI has verified as within the scope this petition. Of the remaining 23 complaints, two involved alleged crashes that resulted in two minor injuries. While ODI is always concerned when a crash is alleged to have occurred, examination of the complaint data, particularly in light of the large population of Steeltex tires, again demonstrates that the complaint rates for Steeltex tires are comparable to other tires. These rates do not indicate that a defect trend exists.

4.3 EWR Data

ODI began receiving EWR data from all major tire manufacturers in December of 2003. This includes data on production, death and injury claims and notices, property damage claims, and warranty adjustments.

ODI used two approaches to analyze EWR data. First, it analyzed the data in a manner similar to how the petitioners suggest a review of Steeltex tires should be conducted: By performing an analysis of Steeltex tire data in their entirety and comparing them to data on other major tire brands manufactured by other major light truck tire manufacturers. Second, ODI performed an analysis of Steeltex tires by specific tire line, tire size, and production years. Neither analysis identified a trend indicating a safety related issue. In fact, both analyses show downward trends since the third quarter of 2003, as previously noted.

ODI analyzed data on claims and notices involving a death or injury. Based on EWR data through the second quarter of 2006, the fatality and injury rates are showing a downward trend. Our analysis revealed that Steeltex tires within the scope of DP06–001 were below the industry average for the rate of claims and notices of death for light truck tires. Other major light truck tire manufacturers had higher fatality rates. With respect to rates for claims and notices involving an injury, Steeltex tire rates were slightly above the industry average; however, they did not stand out when compared to peer manufacturers (i.e. those with the largest volumes). Other major light truck tire manufacturers had higher rates for injuries. In addition, the trends of crashes involving Steeltex tires and resulting in death or injury have declined significantly in recent years, dropping by 82 percent from 2003 to 2005.

Analysis of severe crash (injurious and fatal) rates by tire line, tire size, and production years found that no Steeltex tire that ranked among the top 30 highest rates for light truck radial tires for the production years within the scope of the petition. In contrast to the tires recalled under 04T–003, the tires analyzed in DP06–001 with the highest fatality and injury rates where six times lower and four times lower, respectively, than the tires that were subject of the recall.

ODI's analysis of EWR data through the second quarter of 2006 revealed that the property damage claim rate for Steeltex tires as a whole is very close to and in many cases below the light truck radial (LTR) tire class average. An analysis of property damage and warranty adjustment rates by tire line, tire size and production year found no single Steeltex tire ranked among the top 20 highest rates for light truck radial tires for production years within the scope of the petition. Several other major light truck tire manufacturers have higher rates of property damage claims than Steeltex tires. Also, overall, property damage claims have shown a downward trend since calendar year 2003 for Steeltex tires. The data do not support a defect trend.

4.4 Firestone Data

ODI reviewed data on thousands of property damage and warranty adjustment claims, as well as lawsuits, injury and fatality claims and notices related to Steeltex tires produced between 1999 and 2005 submitted by Firestone. As with the prior petitions, LRE tires account for the vast majority of the Firestone claims. This reflects the large population of LRE tires in use, which exceeds the populations of the other load ranges identified by petitioners. In addition to such a large population, higher claims result from the severe duty conditions under which LRE tires typically operate. When compared to similar tires manufactured by other light truck tire manufacturers, Steeltex tires do not stand out. In fact, ODI's analysis of data submitted by Firestone and peer data from EWR indicate that the Steeltex tires perform at rates similar to those of the rest of the industry and compare favorably to at least two other major light truck tire manufacturers.

5.0 Discussion

This is the fourth petition filed by the petitioners requesting that NHTSA re-open its investigation into Steeltex tires. In response to the petitioners' last two petitions, the agency conducted a thorough assessment that included, among other things, the physical examination of Steeltex tires and the hiring of an independent expert to examine Steeltex tires. *See* 69 FR 58221, 58222. During the course of that technical review, the agency expended considerable resources to decide whether to open a new investigation on Steeltex tires. After the review, the agency did not identify a potential safety-related defect trend and, therefore, denied the petitions.

In the present petition, DP06–001, petitioners provided NHTSA with very little new data. Instead, they relied generally upon their past assertions that the totality of the complaints supports the finding of a defect trend. Petitioners' list of documented incidents of fatalities and injuries was marked by inconsistencies between what petitioners alleged and the actual facts of the incidents. Once the incidents that were not actually within the scope of the petition were removed, only three fatal crashes and 21 injurious crashes remained that were unknown to NHTSA at the time the agency issued its decisions on the previous petitions in September 2004. Other than this small number of incidents alleging a defect in Steeltex tires, the petitioners did not offer any further support that was not previously addressed by NHTSA in prior defect petitions. This small number of incidents, in such a large population of over 23 and a half million tires, does not evidence a defect trend.

Additionally, petitioners did not provide evidence of or identify a particular failure mode that would be indicative of performance issues that ODI could analyze and potentially confirm through its analysis of the available data. Contrary to the petitioners' broad assertion of a defect trend based upon various failure modes, the analysis of the available data does not identify a discrete failure mode that

[13] For some of the VOQs submitted by petitioners, ODI was unable determine if the tire reported fell within the scope of DP06–001. ODI made attempts to contact the consumers to obtain accurate DOT numbers of the reported tires. ODI could not determine if the reported tires fell within the scope of DP06–001 due to one or more of the following reasons: invalid or unknown tire information (DOT numbers) or incorrect or inadequate consumer contact information to obtain the correct DOT number.

amounts to a potential safety-related trend.

The agency once again has spent considerable resources considering whether to re-open a defects investigation into Steeltex tires. ODI analyzed the available data for evidence of a possible source and mode of failure of the subject tires, including data submitted by the petitioners, VOQ and EWR data, Firestone's claim and adjustment data for the subject tires, owner complaints to ODI since the close of the prior petitions, and data available from the agency's prior technical reviews of Steeltex tire petitions.

The Steeltex tires within the scope of DP06–001 represent an immense and diverse population of tires totaling over 23 million tires distributed over 63 different tire line, size and manufacturing plant combinations that are used in the harshest light truck tire applications. ODI's analysis of VOQ and EWR data, and Firestone's property damage and warranty adjustment claim data by individual tire line, size, production year and manufacturing plant, indicate that, as in prior technical reviews, the failure rates for the subject population of Steeltex tires are within the range of rates observed in peer tires of similar size, age and application. Similarly, when the Steeltex tire data are analyzed as a whole, the data again show failure rates that are similar to, and in some cases lower than, peer tires of the same size and load rating.

In addition to examining property damage and warranty adjustment claim data, ODI also examined fatality and injury claims to determine if a defect trend in the subject tires could be identified based on those data. Our analysis of data involving tires within the scope of petition DP06–001 revealed a total of 19 fatalities in 12 crashes and 209 injuries in 121 crashes. ODI analyzed the data to determine if commonalities exist that would yield evidence of a defect trend. The tires on vehicles in these incidents were distributed over multiple tire lines, tire sizes, manufacturing plants and production years. In the case of fatal crashes, the Steeltex tires were distributed over all three tire lines, three different tire sizes, two assembly plants and four of the six production years. In the case of incidents resulting in injuries, the Steeltex tires were distributed over all three tire lines, four tire sizes, all four manufacturing plants and four of the six production years. Although a few of the incidents involved common tires, the failure rates of these tires did not reveal a defect trend.

The tires studied by ODI with the highest rate of involvement in crashes involving death or injury were the Steeltex Radial A/T LT265/75R16 Load Range D tires recalled by Firestone in 04T–003. These tires comprised approximately 2 percent of all Steeltex tires produced by Firestone from 1999 through 2005, but were involved in 20 percent of fatal crashes and 21 percent of all crashes resulting in death or injury. ODI's analysis of the Steeltex tires within the scope of DP06–001 found that the overall rate of such crashes per tires produced is 92 percent lower than the tires recalled in 04T–003. When analyzed by individual tire line and plant, the tire with the next highest rate of crashes resulting in death or injury had a rate 82 percent lower than the recalled tires.

Of the alleged 19 fatalities and 209 injuries, 14 of the alleged fatalities [14] and 186 of the alleged injuries occurred before or during our previous defect petitions. Although there have been a few additional crash incidents that have occurred since denial of the last two petitions, DP04–004 and DP04–005, these do not demonstrate a defect trend and no other new evidence has been provided to ODI to support the petitioners' allegations of safety defects in the subject Steeltex tires. Additionally, as was the case at the denial of DP04–004 and DP04–005, we do not have a basis for determining that these incidents, or any significant portion of them, are attributable to identifiable defects in a specific line and size of Steeltex tire.

ODI is aware of three fatal crashes (six total fatalities) involving vehicles equipped with Steeltex tires that the agency had not previously considered when denying the earlier petitions (including the one crash that occurred in 2003 but did not come to the agency's attention until after those denials in 2004). Each crash involved a different line and size of Steeltex tire. ODI's analysis of available data sources [15] did not identify a defect trend with respect to either of the three different Steeltex tire lines or sizes involved in these crashes.

Additionally, ODI is also aware of twenty-one alleged crashes (twenty-three total injuries) occurring since the denial of DP04–004 and DP04–005. The tires involved in these incidents were of varying Steeltex tire lines, sizes, production years, and originated from three of the four manufacturing plants noted in the petition. Again, ODI's analysis of the various Steeltex tire lines and sizes involved in these incidents did not identify a defect trend.

6.0 Conclusion

ODI has now conducted four technical reviews of Firestone Steeltex tires at the petitioners' request. After review of the data available to the agency, and in consideration of factors such as application, usage, the number of failures, failure rates, peer comparisons, severity of injury, and examination of potential failure modes, the agency has not found evidence of a defect trend in a particular sub-category of Steeltex tires that has not been recalled or in the broad population of over 23 million Steeltex tires within the scope of the petition. Based on ODI's analysis of the information submitted in support of the petition, information in ODI's internal databases, information provided by Firestone, and information gathered through prior technical reviews of Steeltex tires, it is unlikely that NHTSA would issue an order for the notification and remedy of a safety-related defect in the subject tires at the conclusion of the investigation requested by the petitioners. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, petition DP06–001 is denied.

Authority: 49 U.S.C. 30120(e); delegations of authority at CFR 1.50 and 501.8.

Issued on: February 2, 2007.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E7–2103 Filed 2–7–07; 8:45 am]

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[14] One of the 14 fatalities occurred in 2003; however ODI was unaware of the incident when DP04–004 and DP04–005 were denied on September 28, 2004.

[15] EWR, Firestone, VOQs, and Petitioners' List.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Pipeline Safety: Requests for Waivers of Compliance (Special Permits)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: The federal pipeline safety laws allow a pipeline operator to request PHMSA to waive compliance with any part of the federal pipeline safety regulations. We are publishing this notice to provide a list of requests we have received from pipeline operators seeking relief from compliance with certain pipeline safety regulations. This notice seeks public

comment on these requests, including comments on any environmental impacts. In addition, this notice informs the public that we are changing what we will call a decision granting such a request to a special permit. At the conclusion of the comment period, PHMSA will evaluate each request individually to determine whether to grant a special permit or deny the request.

DATES: Submit any comments regarding any of these requests for special permit by March 12, 2007.

ADDRESSES: Comments should reference the docket number for the request and may be submitted in the following ways:

- *DOT Web Site: http://dms.dot.gov*. To submit comments on the DOT electronic docket site, click ''Comment/ Submissions,'' click ''Continue,'' fill in the requested information, click ''Continue,'' enter your comment, then click ''Submit.''
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System; Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *E-Gov Web Site: http://www.Regulations.gov*. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Instructions: You should identify the docket number for the request you are commenting on at the beginning of your comments. If you submit your comments by mail, you should submit two copies. If you wish to receive confirmation that PHMSA received your comments, you should include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov*, and may access all comments received by DOT at *http://dms.dot.gov* by performing a simple search for the docket number.

Note: All comments will be posted without changes or edits to *http://dms.dot.gov* including any personal information provided.

Privacy Act Statement: Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Wayne Lemoi by telephone at (404) 832–1160; or, e-mail at *wayne.lemoi@dot.gov*.

SUPPLEMENTARY INFORMATION:

Change in Nomenclature

PHMSA is changing the name of a decision we make granting a request for waiver of compliance from ''decision granting waiver'' to ''special permit'' to reflect that granting the request will not reduce safety. We commonly add safety conditions to decisions granting waivers to ensure that waiving compliance with an existing pipeline safety standard is consistent with pipeline safety. This is simply a name change for a decision granting waiver under 49 U.S.C. 60118(c)(1). To avoid confusion, we will continue to process requests for waiver on which we have already begun work under the old nomenclature.

Comments Invited on Requests for Waiver

PHMSA has filed in DOT's Docket Management System (DMS) requests for waiver we have received from pipeline operators seeking relief from compliance with certain pipeline safety regulations. Each request has been assigned a separate docket number in the DMS. We invite interested persons to participate by reviewing these requests and by submitting written comments, data or other views. Please include any comments on environmental impacts granting the requests may have.

Before acting on any request, PHMSA will evaluate all comments received on or before the comment closing date. We will consider comments received after this date if it is possible to do so without incurring additional expense or delay. We may grant or deny these requests based on the comments we receive.

PHMSA has received the following requests for waivers of compliance with pipeline safety regulations.

Docket Number	Requester	Regulation(s)	Nature of Waiver
PHMSA–2006–25802	CenterPoint Energy as Transmission.	49 CFR 192.111, 49 CFR 192.201, 49 CFR 192.619.	To authorize operation of a 172-mile gas transmission pipeline from Carthage, TX to Perryville, LA at a maximum allowable operating pressure (MAOP) of 80% of the specified minimum yield strength (SMYS).
PHMSA–2006–26533	Gulf South Pipeline	49 CFR 192.111, 49 CFR 192.201, 49 CFR 192.619.	To authorize operation of certain segments of a proposed gas transmission pipeline from Carthage, TX to Harrisville, MS at a MAOP of 80% of SMYS.
PHMSA–2006–26616	Ozark Gas Transmission ...	49 CFR 192.111, 49 CFR 192.201, 49 CFR 192.619.	To authorize operation of certain segments of a 233-mile gas transmission pipeline (East End Expansion Project) in Arkansas and Mississippi at a MAOP of 80% of SMYS.
PHMSA–2007–27121	Transwestern Pipeline Company, L.L.C.	49 CFR 192.111, 49 CFR 192.201, 49 CFR 192.505, 49 CFR 192.619.	To authorize operation of a 205-mile gas transmission pipeline from La Plata, CO to Gallup, NM at a MAOP of 80% of SMYS.
PHMSA–2006–26530	Alyeska Pipeline Service Company.	49 CFR 192.463, 192.465 & Appendix D of Part 192.	To authorize operation of a 148-mile gas pipeline from Prudhoe Bay, AK to a pump station in the Brooks Mountain range, AK without applying and monitoring external cathodic protection.
PHMSA–2006–26528	Dominion Transmission, Inc.	49 CFR 192.611	To authorize operation of 5,722 ft of a gas transmission pipeline between Loudon and Quantico, VA without reducing operating pressure as a result of a change from a Class 1 to a Class 3 location.
PHMSA–2007–27122	Spectra Energy Transmission (formerly Duke Energy Gas Transmission).	49 CFR 192.611	To authorize operation of 2 parallel gas lines in Westmoreland County, PA without reducing operating pressure as a result of changes from Class 1 to Class 2 locations.

Docket Number	Requester	Regulation(s)	Nature of Waiver
PHMSA–2006–26612	Tennessee Gas Pipeline ...	49 CFR 192.611	To authorize operation of 2 parallel gas lines in Jasper and Lowndes Counties, MS without reducing operating pressure as a result of changes from Class 2 to Class 3 locations.
PHMSA–2006–26618	Tennessee Gas Pipeline ...	49 CFR 192.611	To authorize operation of one pipeline valve section on the Niagara Spur Loop Line, a gas transmission pipeline in upstate New York, without reducing operating pressure required as a result of a change from a Class 1 to a Class 3 location.
PHMSA–2006–26611	Texas Gas Transmission, LLC.	49 CFR 192.611	To authorize operation of 3 parallel gas lines near Lafayette, LA and 2 parallel gas lines near Louisville, KY without reducing operating pressure as a result of changes from Class 1 to Class 3 locations.
PHMSA–2006–26531	Williams Gas Pipeline	49 CFR 192.611	To authorize operation of 2 segments of gas pipelines in Coweta, Fayette and Oconee Counties Georgia without reducing operating pressure as a result of changes from Class 2 to Class 3 locations.
PHMSA–2006–26615	Texas Gas Transmission, LLC.	49 CFR 192.612	To extend the required completion date of repairs to 5 areas of gas transmission pipeline with depths-of-cover less than 12-inches in Terrebonne Parish, LA and federal offshore waters from November 1, 2006 to March 31, 2007.
PHMSA–2006–26532	Chesapeake Appalachia, L.L.C. (formerly Columbia Natural Resources).	49 CFR 192.619	To authorize Chesapeake to establish the MAOP of various segments of its gas gathering pipeline system in Kentucky and West Virginia using a 5 year operating history.
PHMSA–2006–26614	Northern Natural Gas Company.	49 CFR 192.625	To authorize operation of the St. Joseph, MN distribution pipeline without injecting odorant into the gas stream.
PHMSA–2006–26617	TransCanada Keystone Pipeline, LP.	49 CFR 195.106, 49 CFR 195.406.	To authorize operation of a 1,369-mile crude oil pipeline from the Canadian border near Cavalier County, ND to Payne County, OK at a MAOP of 80% of SMYS.
PHMSA–2006–26613	BP Exploration (Alaska) Inc.	49 CFR 195.424	To authorize movement of certain above ground hazardous liquid pipeline sections during routine inspection and maintenance activities without reducing the operating pressure on approximately 150 miles of hazardous liquid pipelines in the North Slope of Alaska.
PHMSA–2006–26529	ConocoPhillips Alaska Pipeline.	49 CFR 195.424	To authorize movement of certain above ground hazardous liquid pipeline sections during routine inspection and maintenance activities without reducing the operating pressure on approximately 100 miles of hazardous liquid pipelines in the North Slope of Alaska.
PHMSA–2007–27120	ExxonMobil Pipeline Company.	49 CFR 195.452(h)	To authorize operation of a 36.3-mile crude oil pipeline from South Bend to New Iberia, LA at a reduced operating pressure in lieu of repairing certain anomalies discovered during an in-line inspection.

Authority: 49 U.S.C. 60118 (c)(1) and 49 CFR 1.53.

Issued in Washington, DC on February 2, 2007.

Jeffrey D. Wiese,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. E7–2094 Filed 2–7–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8734

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8734, Support Schedule for Advance Ruling Period.

DATES: Written comments should be received on or before April 9, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Support Schedule for Advance Ruling Period.

OMB Number: 1545–1836.

Form Number: 8734.

Abstract: Form 8734 is used by charities to furnish financial information that Exempt Organization Determinations of IRS can use to classify a charity as a public charity.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 16,000.

Estimated Time Per Respondent: 34 hours, 19 minutes.

Estimated Total Annual Burden Hours: 549,120.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 2, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2047 Filed 2–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8865

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships.

DATES: Written comments should be received on or before April 9, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Return of U.S. Persons With Respect to Certain Foreign Partnerships.

OMB Number: 1545–1668.

Form Number: 8865.

Abstract: The Taxpayer Relief Act of 1997 significantly modified the information reporting requirements with respect to foreign partnerships. The Act made the following three changes: (1) Expanded Code section 6038B to require U.S. persons transferring property to foreign partnerships in certain transactions to report those transfers; (2) expanded Code section 6038 to require certain U.S. partners of controlled foreign partnerships to report information about the partnerships, and (3) modified the reporting required under Code section 6046A with respect to acquisitions and dispositions of foreign partnership interests. Form 8865 is used by U.S. persons to fulfill their reporting obligations under Code sections 6038B, 6038, and 6046A.

Current Actions: We have added 3 line items to the Schedule K.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and not-for-profit institutions.

Estimated Number of Respondents: 3,300.

Estimated Time Per Respondent: 89 hours, 44 minutes.

Estimated Total Annual Burden Hours: 296,124.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 1, 2007.

Glenn P, Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2049 Filed 2–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[RP–155431–05]

Proposed Collection; Comment Request for Revenue Procedure

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning RP–155431–05, Revenue Procedure Regarding 6707/6707A Rescission Request Procedures.

DATES: Written comments should be received on or before April 9, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Revenue Procedure Regarding 6707/6707A Rescission Request Procedures.

OMB Number: 1545–2047.

Revenue Procedure Number: 155431–05.

Abstract: This revenue procedure provides guidance to persons who are assessed a penalty under section 6707A or 6707 of the Internal Revenue Code, and who may request rescission of those penalties from the Commissioner.

Current Actions: There are no changes being made to this revenue procedure.

Type of Review: New collection.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 859.

Estimated Time Per Respondent: 0.5 hours.

Estimated Total Annual Burden Hours: 429.50.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 31, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2050 Filed 2–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[(REG–108639–99); (NOTICE 2000–3)]

Proposed Collection; Comment Request for Qualified Retirement Plans Under Sections 401(k) and 401(m) and Guidance on Cash or Deferred Arrangements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning REG–108639–99 (NPRM) Sections 401(k) and 401(m); Notice 2000–3 Guidance on Cash or Deferred Arrangements.

DATES: Written comments should be received on or before April 9, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carolyn N. Brown at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: REG–108639–99 (NPRM) Sections 401(k) and 401(m); Notice 2000–3 Guidance on Cash or Deferred Arrangements.

OMB Number: 1545–1669.

Regulation/Notice Number: REG–108639–99/Notice 2000–3.

Abstract: The final regulations provide guidance for qualified retirement plans containing cash or deferred arrangements under section 401(k) and providing matching contributions or employee contributions under section 401(m). The IRS needs this information to insure compliance with sections 401(k) and 401(m).

Current Actions: There are no changes being made to this regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit, Not-for-profit institutions and State, Local or Tribal Government.

Estimated Number of Respondents: 22,500.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 26,500.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 1, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–2052 Filed 2–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via teleconference. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, March 7, 2007, at 1 p.m., Eastern Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, March 7, 2007, at 1 p.m. Eastern Time via a telephone conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or (414) 231–2360, or write Barbara Toy, TAP Office, MS–1006–MIL, PO Box 3205, Milwaukee, WI 53201–2105, or FAX to (414) 231–2363, or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Barbara Toy.

The agenda will include the following: discussion of issues and responses brought to the Joint Committee, office report, and discussion of next meeting.

Dated: January 31, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2051 Filed 2–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 13, 2007, at 9:30 a.m. Central Time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 231–2365.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, March 13, 2007, at 9:30 a.m. Central Time via a telephone conference call. You can submit written comments to the Panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop1006MIL, PO Box 3205, Milwaukee, WI 53201–3205, or you can contact us at *http://www.improveirs.org.* This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2365 for additional information.

The agenda will include the following: Various IRS issues.

Dated: January 31, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2054 Filed 2–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, and Wisconsin)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 20, 2007, at 10 a.m., Central Time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 4 Taxpayer Advocacy Panel will be held Tuesday, March 20, 2007, at 10 a.m., Central Time via a telephone conference call. You can submit written comments to the Panel by faxing the comments to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, PO Box 3205, Milwaukee, WI 53201–3205, or you can contact us at *http://www.improveirs.org.* This meeting is not required to be open to the public, but because we are always interested in community input we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: January 31, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2056 Filed 2–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service, (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue

Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 6, 2007, at Noon Eastern Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, March 6, 2007, at Noon, Eastern Time via a telephone conference call. You can submit written comments to the Panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, P.O. Box 3205, Milwaukee, WI 53201–3205, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Barbara Toy at 1–888–912–1227 or (414) 231–2360 for additional information.

The agenda will include the following: Various VITA Issues.

Dated: January 31, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2059 Filed 2–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, March 1, 2007 from 11 a.m. ET.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10 (a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Thursday, March 1, 2007 from 11 a.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: January 31, 2007.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E7–2065 Filed 2–7–07; 8:45 am]

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Corrections

Federal Register

Vol. 72, No. 26

Thursday, February 8, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 86 and 600

[EPA–HQ–OAR–2005–0169; FRL–8257–5]

RIN 2060-AN14

Fuel Economy Labeling of Motor Vehicles: Revisions to Improve Calculation of Fuel Economy Estimates

Correction

In rule document 06–9749 beginning on page 77872 in the issue of Wednesday, December 27, 2006, make the following correction:

On page 77943, in the first column, in amendatory instruction 32, in the first line ''§ 600.115–'' should read ''§ 600.115–08''.

[FR Doc. C6–9749 Filed 2–7–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
February 8, 2007

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule Designating the Western Great Lakes Populations of Gray Wolves as a Distinct Population Segment; Removing the Western Great Lakes Distinct Population Segment of the Gray Wolf From the List of Endangered and Threatened Wildlife; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU54

Endangered and Threatened Wildlife and Plants; Final Rule Designating the Western Great Lakes Populations of Gray Wolves as a Distinct Population Segment; Removing the Western Great Lakes Distinct Population Segment of the Gray Wolf From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS) establish the Western Great Lakes (WGL) Distinct Population Segment (DPS) of the gray wolf (*Canis lupus*). The geographic extent of this DPS includes all of Minnesota, Wisconsin, and Michigan; the eastern half of North Dakota and South Dakota; the northern half of Iowa; the northern portions of Illinois and Indiana; and the northwestern portion of Ohio. We also remove the WGL DPS from the List of Endangered and Threatened Wildlife established under the Endangered Species Act of 1973, as amended (Act). We are taking these actions because available data indicate that this DPS no longer meets the definitions of threatened or endangered under the Act. The threats have been reduced or eliminated, as evidenced by a population that is stable or increasing in Minnesota, Wisconsin, and Michigan, and greatly exceeds the numerical recovery criteria established in its recovery plan. Completed State wolf management plans will provide adequate protection and management of the WGL DPS after delisting. This final rule removes this DPS from the lists of Threatened and Endangered Wildlife, removes the currently designated critical habitat for the gray wolf in Minnesota and Michigan, removes the current special regulations for gray wolves in Minnesota and takes an administrative action that corrects gray wolf designations in the List of Endangered and Threatened Wildlife at 50 CFR 17.11 and the associated special regulations at § 17.40(n) and (o).

DATES: This rule becomes effective on March 12, 2007.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at our Midwest Regional Office: U.S. Fish and Wildlife Service, Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111–4056. Call 612–713–5350 to make arrangements. The comments and materials we received during the comment period on the proposed rule also are available for public inspection and by appointment during normal business hours at this Regional Office and at our Ecological Services Field Offices in Bloomington, Minnesota (612–725–3548); New Frankin, Wisconsin (920–866–1717); and East Lansing, Michigan (517–351–2555). Call those offices to make arrangements.

FOR FURTHER INFORMATION CONTACT: Ron Refsnider, 612–713–5350. Direct all questions or requests for additional information to the Service using the Gray Wolf Phone Line—612–713–7337, facsimile—612–713–5292, the general gray wolf electronic mail address—*GRAYWOLFMAIL@FWS.GOV*, or write to: GRAY WOLF QUESTIONS, U.S. Fish and Wildlife Service, Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111–4056. Additional information is also available on our World Wide Web site at *http://www.fws.gov/midwest/wolf*. In the event that our internet connection is not functional, please contact the Service by the alternative methods mentioned above. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

Biology and Ecology of Gray Wolves

For a discussion of the biology and ecology of gray wolves and general recovery planning efforts, see the proposed WGL wolf rule published on March 27, 2006, (71 FR 15266–15305) and available on our World Wide Web site.

Recovery Criteria

The 1978 Recovery Plan for the Eastern Timber Wolf (Recovery Plan) and the 1992 revised Recovery Plan (Revised Plan) contain the same two delisting criteria. The first delisting criterion states that the survival of the wolf in Minnesota must be assured. We, and the Eastern Timber Wolf Recovery Team (Peterson in litt. 1997, 1998, 1999a, 1999b), have concluded that this first delisting criterion remains valid. It addresses a need for reasonable assurances that future State, Tribal, and Federal wolf management and protection will maintain a viable recovered population of gray wolves within the borders of Minnesota for the foreseeable future.

Although the Recovery Plan's recovery criteria predate the scientific field of conservation biology, the conservation principles of representation (conserving the genetic diversity of a taxon), resilience (the ability to withstand demographic and environmental variation), and redundancy (sufficient populations to provide a margin of safety) were incorporated into these criteria. Maintenance of the Minnesota wolf population is vital because the remaining genetic diversity of gray wolves in the eastern United States was carried by the several hundred wolves that survived in the State into the early 1970s. The Recovery Team insisted that the remnant Minnesota wolf population be maintained and protected to achieve wolf recovery in the eastern United States. The successful growth of that remnant population has maintained and maximized the representation of that genetic diversity among gray wolves in the WGL DPS. Furthermore, the Recovery Plan established a planning goal of 1,250–1,400 animals for the Minnesota wolf population (USFWS 1992, p. 28), which would increase the likelihood of maintaining its genetic diversity over the long term. This large Minnesota wolf population also provides resiliency to reduce the adverse impacts of unpredictable demographic and environmental events. Furthermore, the Recovery Plan specifies a wolf population that is spread across about 40 percent of the State (Zones 1 through 4) (USFWS 1992, p. 28), adding a geographic component to the resiliency of the Minnesota wolf population.

The second delisting criterion in the Recovery Plan states that at least one viable wolf population should be reestablished within the historical range of the eastern timber wolf outside of Minnesota and Isle Royale, Michigan. The second population enhances both the resiliency and redundancy of the recovery program. The Recovery Plan provides two options for reestablishing this second population. If it is an isolated population, that is, located more than 100 miles (160 km) from the Minnesota wolf population, the second population should consist of at least 200 wolves for at least 5 years (based upon late-winter population estimates) to be considered viable. Alternatively, if the second population is located within 100 miles (160 km) of a self-sustaining wolf population (for example, the Minnesota wolf population), it would be considered viable if it maintained a minimum of 100 wolves for at least 5

years. Such a nearby second population would be viable at a smaller size, because it would exchange wolves with the Minnesota population (that is, they would function as a metapopulation), thereby bolstering the smaller second population genetically and numerically.

The Recovery Plan does not specify where in the eastern United States the second population should be reestablished. Therefore, the second population could be located anywhere within the triangular Minnesota-Maine-Florida area covered by the 1978 Recovery Plan and the 1992 Revised Recovery Plan, except on Isle Royale (Michigan) or within Minnesota. The 1992 Revised Recovery Plan retained potential gray wolf re-establishment areas in northern Wisconsin, the upper peninsula (UP) of Michigan, the Adirondack Forest Preserve of New York, a small area in eastern Maine, and a larger area of northwestern Maine and adjacent northern New Hampshire (USFWS 1992, pp. 56–58). Neither the 1978 nor the 1992 recovery criteria suggest that the restoration of the gray wolf throughout all or most of its historical range in the eastern United States, or to all of these potential re-establishment areas, is necessary to achieve recovery under the Act.

In 1998, the Eastern Timber Wolf Recovery Team clarified the application of the delisting criterion for the second population to the wolf population that had developed in northern Wisconsin and the adjacent UP. The Recovery Team recommended that the numerical delisting criterion for the Wisconsin-Michigan population will be achieved when 6 consecutive late-winter wolf surveys document that the population equals or exceeds 100 wolves (excluding Isle Royale wolves) for the 5 consecutive years between the 6 surveys (Peterson in litt. 1998). This second population is less than 200 miles from the Minnesota wolf population.

Recovery of the Gray Wolf in the Western Great Lakes Area

Minnesota Recovery

During the pre-1965 period of wolf bounties and legal public trapping, wolves persisted in the remote northeastern portion of Minnesota, but were eliminated from the rest of the State. Estimated numbers of Minnesota wolves before their listing under the Act in 1974 include 450 to 700 in 1950–53 (Fuller *et al.* 1992, p. 43, based on data in Stenlund 1955, p. 19), 350 to 700 in 1963 (Cahalane 1964, p. 10), 750 in 1970 (Leirfallom 1970, p. 11), 736 to 950 in 1971–72 (Fuller *et al.* 1992, p. 44), and 500 to 1,000 in 1973 (Mech and Rausch 1975, p. 85). Although these estimates were based upon different methodologies and are not directly comparable, each puts the pre-listing abundance of wolves in Minnesota at 1,000 or less. This was the only significant wolf population in the United States outside Alaska during those time-periods.

After the wolf was listed as endangered under the Act, the Minnesota population estimates increased (see Table 1 below). Mech estimated the population to be 1,000 to 1,200 in 1976 (USFWS 1978, pp. 4, 50–52), and Berg and Kuehn (1982, p. 11) estimated that there were 1,235 wolves in 138 packs in the winter of 1978–79. In 1988–89, the Minnesota Department of Natural Resources (MN DNR) repeated the 1978–79 survey and also used a second method to estimate wolf numbers in the State. The resulting independent estimates were 1,500 and 1,750 wolves in at least 233 packs; the lower number was derived by a method comparable to the 1978–79 survey (Fuller *et al.* 1992, pp. 50–51).

During the winter of 1997–98, a statewide wolf population and distribution survey was repeated by MN DNR, using methods similar to those of the two previous surveys. Field staff of Federal, State, Tribal, and county land management agencies and wood products companies were queried to identify occupied wolf range in Minnesota. Data from 5 concurrent radio telemetry studies tracking 36 packs, representative of the entire Minnesota wolf range, were used to determine average pack size and territory area. Those figures were then used to calculate a statewide estimate of wolf and pack numbers in the occupied range, with single (non-pack) wolves factored into the estimate (Berg and Benson 1999, pp. 1–2).

TABLE 1.—GRAY WOLF WINTER POPULATIONS IN MINNESOTA, WISCONSIN, AND MICHIGAN (EXCLUDING ISLE ROYALE) FROM 1976 THROUGH 2006

[Note that there are several years between the first three estimates]

Year	Minnesota	Wisconsin	Michigan	WI & MI total
1976	1,000–1,200	.....	.....	.....
1978–79	1,235	.....	.....	.....
1988–89	1,500–1,750	31	3	34
1989–90	.....	34	10	44
1990–91	.....	40	17	57
1991–92	.....	45	21	66
1992–93	.....	40	30	70
1993–94	.....	57	57	114
1994–95	.....	83	80	163
1995–96	.....	99	116	215
1996–97	.....	148	113	261
1997–98	2,445	180	139	319
1998–99	.....	205	169	374
1999–2000	.....	248	216	464
2000–01	.....	257	249	506
2001–02	.....	327	278	604
2002–03	.....	335	321	656
2003–04	3,020	373	360	733
2004–05	.....	435*	405	840
2005–06	.....	465	434	899

*Previous estimate of 425 has been corrected, based on subsequent location of 5 packs missed during survey period (Wydeven *et al.* 2006, pp. 9–10).

The 1997–98 survey concluded that approximately 2,445 wolves existed in about 385 packs in Minnesota during that winter period (90 percent confidence interval from 1,995 to 2,905 wolves) (Berg and Benson 1999, p. 4). This figure indicated the continued growth of the Minnesota wolf population at an average rate of about 3.7 percent annually from 1970 through 1997–98. Between 1979 and 1989 the annual growth rate was about 3 percent, and it increased to between 4 and 5 percent in the next decade (Berg and Benson 1999, Fuller *et al.* 1992, 51). As of the 1998 survey, the number of Minnesota wolves was approximately twice the planning goal for Minnesota, as specified in the Eastern Recovery Plan (USFWS 1992, p. 28).

Minnesota DNR conducted another survey of the State's wolf population and range during the winter of 2003–04, again using similar methodology. That survey concluded that an estimated 3,020 wolves in 485 packs occurred in Minnesota at that time (90 percent confidence interval for this estimate is 2,301 to 3,708 wolves). Due to the wide overlap in the confidence intervals for the 1997–98 and 2003–04 surveys, the authors conclude that, although the population point estimate increased by about 24 percent over the 6 years between the surveys (about 3.5 percent annually), there was no statistically significant change in the State's wolf population during that period (Erb and Benson 2004, pp. 7 and 9).

As wolves increased in abundance in Minnesota, they also expanded their distribution. During 1948–53, the major wolf range was estimated to be about 11,954 sq mi (31,080 sq km) (Stenlund 1955, p. 19). A 1970 questionnaire survey resulted in an estimated wolf range of 14,769 sq mi (38,400 sq km) (calculated by Fuller *et al.* 1992, p. 43, from Leirfallom 1970). Fuller *et al.* (1992, p. 44), using data from Berg and Kuehn (1982), estimated that Minnesota primary wolf range included 14,038 sq mi (36,500 sq km) during winter 1978–79. By 1982–83, pairs or breeding packs of wolves were estimated to occupy an area of 22,000 sq mi (57,050 sq km) in northern Minnesota (Mech *et al.* 1988, p. 86). That study also identified an additional 15,577 sq mi (40,500 sq km) of peripheral range, where habitat appeared suitable but no wolves or only lone wolves existed. The 1988–89 study produced an estimate of 23,165 sq mi (60,200 sq km) as the contiguous wolf range at that time in Minnesota (Fuller *et al.* 1992, pp. 48–49; Berg and Benson 1999, p. 3, 5), an increase of 65 percent over the primary range calculated for 1978–79. The 1997–98 study concluded that the contiguous wolf range had expanded to 33,971 sq mi (88,325 sq km), a 47 percent increase in 9 years (Berg and Benson 1999, p. 5). By that time the Minnesota wolf population was using most of the occupied and peripheral range identified by Mech *et al.* (1988, p. 86). The wolf population in Minnesota had recovered to the point that its contiguous range covered approximately 40 percent of the State during 1997–98. In contrast, the 2003–04 survey failed to show a continuing expansion of wolf range in Minnesota, and any actual increase in wolf numbers since 1997–98 was attributed to increased wolf density within a stabilized range (Erb and Benson 2004, p. 7).

Although Minnesota DNR does not conduct a formal wolf population survey annually, it includes the species in its annual carnivore track survey. This survey, standardized and operational since 1994, provides an annual index of abundance for several species of large carnivores by counting their tracks along 51 standardized survey routes in the northern portion of Minnesota. Based on these surveys, the wolf track indices for winter 2004–05 showed little change from the previous winter, and no statistically significant trends are apparent since 1994. However, the data show some indication of an increase in wolf density (Erb 2005, p. 2, 5). Thus, the winter track survey results are consistent with a stable or slowly increasing wolf population in northern Minnesota over this 11-year period.

Wisconsin Recovery

Wolves were considered to have been extirpated from Wisconsin by 1960. No formal attempts were made to monitor the State's wolf population from 1960 until 1979. From 1960 through 1975, individual wolves and an occasional wolf pair were reported. There is no documentation, however, of any wolf reproduction occurring in Wisconsin, and the wolves that were reported may have been dispersing animals from Minnesota.

Wolves are believed to have returned to Wisconsin in more substantial numbers around 1975, and the Wisconsin Department of Natural Resources (WI DNR) began wolf population monitoring in 1979–80 and estimated a statewide population of 25 wolves at that time (Wydeven and Wiedenhoeft 2000, pp. 151, 159). This population remained relatively stable for several years, then declined slightly to approximately 15 to 19 wolves in the mid-1980s. In the late 1980s, the Wisconsin wolf population began an increase that has continued into 2006 (Wydeven *et al.* 2006, p. 35).

Wisconsin DNR intensively surveys its wolf population annually using a combination of aerial, ground, and satellite radio telemetry, complemented by snow tracking and wolf sign surveys (Wydeven *et al.* 2006, pp. 4–5). Wolves are trapped from May through September and fitted with radio collars, with a goal of having at least one radio-collared wolf in about half of the wolf packs in Wisconsin. Aerial locations are obtained from each functioning radio-collar about once per week, and pack territories are estimated and mapped from the movements of the individuals who exhibit localized patterns. From December through March, the pilots make special efforts to visually locate and count the individual wolves in each radio-tracked pack. Snow tracking is used to supplement the information gained from aerial sightings and to provide pack size estimates for packs lacking a radio-collared wolf. Tracking is done by assigning survey blocks to trained trackers who then drive snow-covered roads in their blocks and follow all wolf tracks they encounter. Snowmobiles are used to locate wolf tracks in more remote areas with few roads. The results of the aerial and ground surveys are carefully compared to properly separate packs and to avoid over-counting (Wydeven *et al.* 2006a, pp. 4–5). The number of wolves in each pack is estimated based on the aerial and ground observations made of the individual wolves in each pack over the winter.

Because the monitoring methods focus on wolf packs, lone wolves are likely undercounted in Wisconsin. As a result, the annual population estimates are probably slight underestimates of the actual wolf population within the State during the late-winter period. Fuller (1989, p. 19) noted that lone wolves are estimated to compose from 2 to 29 percent of the total population in the area. Also, these estimates are made at the low point of the annual wolf population cycle; the late-winter surveys produce an estimate of the wolf population at a time when most winter mortality has already occurred and before the birth of pups. Thus, Wisconsin wolf population estimates are conservative in two respects: they undercount lone wolves and the count is made at the annual low point of the population. This methodology is consistent with the recovery criteria established in the 1992 Recovery Plan, which established numerical criteria to be measured with data obtained by late-winter surveys.

From mid-September 2005 through mid-April 2006, 43 radio collars were active on Wisconsin wolves, including 38 packs. An estimated 465 to 502 wolves in 115 packs, including 16 to 17 wolves on Native American reservations, were in the State in early 2006, representing a 7 percent increase from 2005 (Wydeven *et al.* 2006, pp. 1, 6).

Wisconsin population estimates for 1985 through 2006 increased from 15 to 465–502 wolves (see Table 1 above) and from 4 to 115 packs (Wydeven *et al.* 2006, pp. 1, 35). This represents an annual increase of 21 percent through 2000, and an average annual increase of 11 percent for the most recent 6 years.

In 1995, wolves were first documented in Jackson County, Wisconsin, well to the south of the northern Wisconsin area occupied by other Wisconsin wolf packs. The number of wolves in this central Wisconsin area has dramatically increased since that time. During the winter of 2004–05, there were 53–56 wolves in 14 packs in the central forest wolf range (Zone 2 in the Wisconsin Wolf Management Plan; WI DNR 1999, p. 18) and an additional 17–19 wolves in 7 packs in the marginal habitat in Zone 3, located between Zone 1 (northern forest wolf range) and Zones 2 and 4 (Wydeven *et al.* 2006, pp. 6, 33).

During the winter of 2002–03, 7 wolves were believed to be primarily occupying Native American reservation lands in Wisconsin (Wydeven *et al.* 2003, p. 9); this increased to 11 to 13 wolves in the winter of 2004–05 (Wydeven in litt. 2005) and 16–17 in 2005–06. The 2005–06 animals consisted of 2 packs totaling 7 to 8 wolves on the Bad River Chippewa Reservation and a pack of 4 wolves on the Lac Courtes Oreilles Chippewa Reservation, both in northwestern Wisconsin. There also was a single pack of three wolves on the Lac du Flambeau Reservation and a two-wolf pack on the Menominee Reservation, in north-central and northeastern Wisconsin, respectively (Wydeven *et al.* 2006, pp. 27, 28, 33). Additional wolves have spent some time on the Red Cliff Chippewa Reservation, the St. Croix Chippewa Reservation, and the Ho Chunk Reservation in the last few years. It is likely that the Potowatomi Reservation lands will also host wolves in the near future (Wydeven in litt. 2005). Of these reservations the Ho-Chunk, St. Croix Chippewa, and Potowatomi are composed mostly of scattered parcels of land, and are not likely to provide significant amounts of wolf habitat.

In 2002, wolf numbers in Wisconsin alone surpassed the Federal criterion for a second population, as identified in the 1992 Recovery Plan (i.e., 100 wolves for a minimum of 5 consecutive years, as measured by 6 consecutive late-winter counts). Furthermore, in 2004 Wisconsin wolf numbers exceeded the Recovery Plan criterion of 200 animals for 6 successive late-winter surveys for an isolated wolf population. The Wisconsin wolf population continues to increase, although the slower rates of increase seen since 2000 may be the first indications that the State's wolf population growth and geographic expansion are beginning to level off. Mladenoff *et al.* (1997, p. 47) and Wydeven *et al.* (1999, p. 49) estimated that occupancy of primary wolf habitat in Wisconsin would produce a wolf population of about 380 animals in the northern forest area of the State plus an additional 20–40 wolves in the central forest area. If wolves occupy secondary habitat (areas with a 10–50 percent probability of supporting a wolf pack) in the State, their estimated population could be 50 percent higher or more (Wydeven *et al.* 1999, p. 49) resulting in a statewide population of 600 or more wolves.

Michigan Recovery

Wolves were extirpated from Michigan as a reproducing species long before they were listed as endangered in 1974. Prior to 1991, and excluding Isle Royale, the last known breeding population of wild Michigan wolves occurred in the mid-1950s. However, as wolves began to reoccupy northern Wisconsin, the Michigan Department of Natural Resources (MI DNR) began noting single wolves at various locations in the UP of Michigan. In 1989, a wolf pair was verified in the central UP, and it produced pups in 1991. Since that time, wolf packs have spread throughout the UP, with immigration occurring from Wisconsin on the west and possibly from Ontario on the east. They now are found in every county of the UP, with the possible exception of Keweenaw County (Huntzinger et al 2005, p. 6).

The MI DNR annually monitors the wolf population in the UP by intensive late-winter tracking surveys that focus on each pack. The UP is divided into seven monitoring zones, and specific surveyors are assigned to each zone. Pack locations are derived from previous surveys, citizen reports, and extensive ground and aerial tracking of radio-collared wolves. During the winter of 2004–05 at least 87 wolf packs were resident in the UP (Huntzinger *et al.* 2005, p. 6). A minimum of 40 percent of these packs had members with active radio-tracking collars during the winter of 2004–05 (Huntzinger *et al.* 2005, p. 6–7). Care is taken to avoid double-counting packs and individual wolves, and a variety of evidence is used to distinguish adjacent packs and accurately count their members. Surveys along the border of adjacent monitoring zones are coordinated to avoid double-counting of wolves and packs occupying those border areas. In areas with a high density of wolves, ground surveys by 4 to 6 surveyors with concurrent aerial tracking are used to accurately delineate territories of adjacent packs and count their members (Beyer *et al.* 2004, pp. 2–3, Huntzinger *et al.* 2005, pp. 3–6; Potvin *et al.* 2005, p. 1661). As with Wisconsin, the Michigan surveys likely miss many lone wolves, thus underestimating the actual population.

Annual surveys have documented minimum late-winter estimates of wolves occurring in the UP as increasing from 57 wolves in 1994 to 434 in 91 packs in 2006 (see Table 1 above). Over the last 10 years the annualized rate of increase has been about 18 percent (Beyer *et al.* 2006, p. 35; Huntzinger *et al.* 2005, p. 6; MI DNR 2006a; Roell in litt. 2006a). The rate of annual increase has varied from year to year during this period, but there appears to be two distinct phases of population growth, with relatively rapid growth (24.3 to 25.9 percent per year) from 1997 through 2000 and slower growth (11.6 to 15.5 percent from 2000 through 2005 and 7.2 percent in 2006) since then. As with the Wisconsin wolves, the number of wolves in the Michigan UP wolf population by itself has surpassed the recovery criterion for a second population in the eastern United States (i.e., 100 wolves for a minimum of 5 consecutive years, based on 6 late-winter estimates), as specified in the Federal Recovery Plan, since 2001. In addition, the UP numbers have now surpassed the Federal criterion for an isolated wolf population of 200 animals for 6 successive late-winter surveys (USFWS 1992, pp. 24–26).

To date, no wolf packs are known to be primarily using tribal-owned lands in Michigan (Roell in litt. 2006b). Native American tribes in the UP of Michigan own small, scattered parcels of land. As such, no one tribal property would likely support a wolf pack. However, as wolves occur in all counties in the UP and range widely, tribal land is likely utilized periodically by wolves.

The wolf population of Isle Royale National Park, Michigan, is not considered to be an important factor in the recovery or long-term survival of

wolves in the WGL DPS. This is a small and isolated wolf population that probably has not had any contact with mainland wolf populations since its founding pair crossed the Lake Superior ice in the late 1940s (Peterson *et al.* 1998, p. 828). This wolf population lacks sufficient genetic uniqueness (Wayne *et al.* 1991, pp. 47–49), and due to the island's small size, cannot satisfy the discreteness criterion for a separate DPS. For these same reasons it will not make a significant numerical contribution to gray wolf recovery, although long-term research on this wolf population has added a great deal to our knowledge of the species. The wolf population on Isle Royale has ranged from 12 to 50 wolves since 1959, and was 30 wolves in the winter of 2005–06 (Peterson and Vucetich 2006, p. 6).

Although there have been verified reports of wolf sightings in the Lower Peninsula of Michigan, resident breeding packs have not been confirmed there. In October 2004 the first gray wolf since 1910 was documented in the Lower Peninsula (LP). This wolf had been trapped and radio-collared by the MI DNR while it was a member of a central UP pack in late 2003. At some point it had moved to the LP and ultimately was killed by a trapper who believed it was a coyote (MI DNR 2004). Shortly after that, MI DNR biologists and conservation officers confirmed that two additional wolves were traveling together in Presque Isle County in the northern Lower Peninsula (NLP). A subsequent two-week survey was conducted in that area, but no additional evidence of wolf presence was found (Huntzinger *et al.* 2005, p. 35). Recognizing the likelihood that small numbers of gray wolves will eventually move into the Lower Peninsula and form persistent packs (Potvin 2003, pp. 29–30, Gehring and Potter 2005, p. 1242; Beyer et at. 2006, p. 35), MI DNR has begun a revision of its Wolf Management Plan in part to incorporate provisions for wolf management there.

Summary for Wisconsin and Michigan

The two-State wolf population, excluding Isle Royale wolves, has exceeded 100 wolves since late-winter 1993–94 and has exceeded 200 wolves since late-winter 1995–96. Therefore, the combined wolf population for Wisconsin and Michigan has exceeded the second population recovery goal of the 1992 Recovery Plan for a non-isolated wolf population since 1999. Furthermore, the two-State population has exceeded the recovery goal for an isolated second population since 2001.

Other Areas in and Near the Western Great Lakes DPS

As described earlier, the increasing wolf population in Minnesota and the accompanying expansion of wolf range westward and southwestward in the State have led to an increase in dispersing wolves that have been documented in North and South Dakota in recent years. No surveys have been conducted to document the number of wolves present in North Dakota or South Dakota. However, biologists who are familiar with wolves there generally agree that there are only occasional lone dispersers that appear primarily in the eastern portion of these States. There were reports of pups being seen in the Turtle Mountains of North Dakota, in 1994 (Collins in litt. 1998), an adult male wolf was shot near Devil's Lake, North Dakota in 2002, another adult male shot in Richland County in extreme southeastern North Dakota in 2003 (Fain in litt. 2006), and a vehicle-killed adult male found near Sturgis, South Dakota, in 2006 (Larson in litt. 2006a). In contrast to the other South Dakota wolves of the last twenty-five years, this animal has been genetically identified as having come from the Greater Yellowstone area (Fain in litt. 2006). See the Delineating the WGL Gray Wolf DPS for a detailed discussion of movement of wolves.

Wolf dispersal is expected to continue as wolves travel away from the more saturated habitats in the core recovery areas into areas where wolves are extremely sparse or absent. Unless they return to a core recovery population and join or start a pack there, they are unlikely to contribute to long-term maintenance of recovered wolf populations. Although it is possible for them to encounter a mature wolf of the opposite sex, to mate, and to reproduce outside the core wolf areas, the lack of large expanses of unfragmented public land make it unlikely that any wolf packs will persist in these areas, and this is a bottleneck that seriously impedes further expansion. The only exception is the NLP of Michigan, where several studies indicate that a persistent wolf population may develop (Gehring and Potter 2005, p. 1242; Potvin 2003, 29–30), perhaps dependent on occasional to frequent immigration of UP wolves. However, currently existing wolf populations in Minnesota, Wisconsin, and the UP of Michigan have already greatly exceeded the Federal recovery criteria and are not dependent on wolves or wolf populations from other areas of the WGL DPS to maintain these recovered numbers.

Previous Federal Action

On April 1, 2003, we published a final rule revising the listing status of the gray wolf across most of the conterminous United States (68 FR 15804). Within that rule, we established three distinct population segments (DPS) for the gray wolf. Gray wolves in the Western DPS and the Eastern DPS were reclassified from endangered to threatened, except where already classified as threatened or as an experimental population. Gray wolves in the Southwestern DPS retained their previous endangered or experimental population status. Three existing gray wolf experimental population designations were not affected by the April 1, 2003, final rule. We removed gray wolves from the lists of threatened and endangered wildlife in all or parts of 16 southern and eastern States where the species historically did not occur. We also established a new special rule under section 4(d) of the Act for the threatened Western DPS to increase our ability to effectively manage wolf-human conflicts outside the two experimental population areas in the Western DPS. In addition, we established a second section 4(d) rule that applied provisions similar to those previously in effect in Minnesota to most of the Eastern DPS. These two special rules were codified in 50 CFR 17.40(n) and (o), respectively.

On January 31, 2005, and August 19, 2005, U.S. District Courts in Oregon and Vermont, respectively, ruled that the April 1, 2003, final rule violated the Act (*Defenders of Wildlife* v. *Norton,* 1:03–1348–JO, D. OR 2005; *National Wildlife Federation* v. *Norton,* 1:03–CV–340, D. VT. 2005). The Courts' rulings invalidated the revisions to the gray wolf listing. Therefore, the status of gray wolves outside of Minnesota and outside of areas designated as nonessential experimental populations reverted back to endangered (as had been the case prior to the 2003 reclassification). The courts also invalidated the three DPS designations in the April 1, 2003, rule as well as the associated special regulations. We therefore must remove the DPS designations from the List of Endangered and Threatened Wildlife at 50 CFR 17.11 and the associated special regulations at § 17.40(n) and (o). In accordance with 5 U.S.C. 553(b)(3)(B), we find notice and comment procedures are unnecessary and contrary to the public interest because these actions are required by court orders.

On March 27, 2006, we published a proposal (71 FR 15266–15305) to designate a WGL DPS of the gray wolf,

to remove the WGL DPS from the protections of the Act, to remove designated critical habitat for the gray wolf in Minnesota and Michigan, and to remove special regulations for the gray wolf in Minnesota. The proposal was followed by a 90-day comment period, during which we held four public hearings on the proposal. Please refer to the proposed rule for further information on previous Federal actions.

Geographical Area of the Western Great Lakes Distinct Population Segment

The geographical area of the WGL DPS is shown in Figure 1, below, and is described as all of Minnesota, Wisconsin, and Michigan; the portion of North Dakota north and east of the Missouri River upstream to Lake Sakakawea and east of the centerline of Highway 83 from Lake Sakakawea to the Canadian border; the portion of South Dakota north and east of the Missouri River; the portions of Iowa, Illinois, and Indiana north of the centerline of Interstate Highway 80; and the portion of Ohio north of the centerline of Interstate Highway 80 and west of the Maumee River at Toledo.

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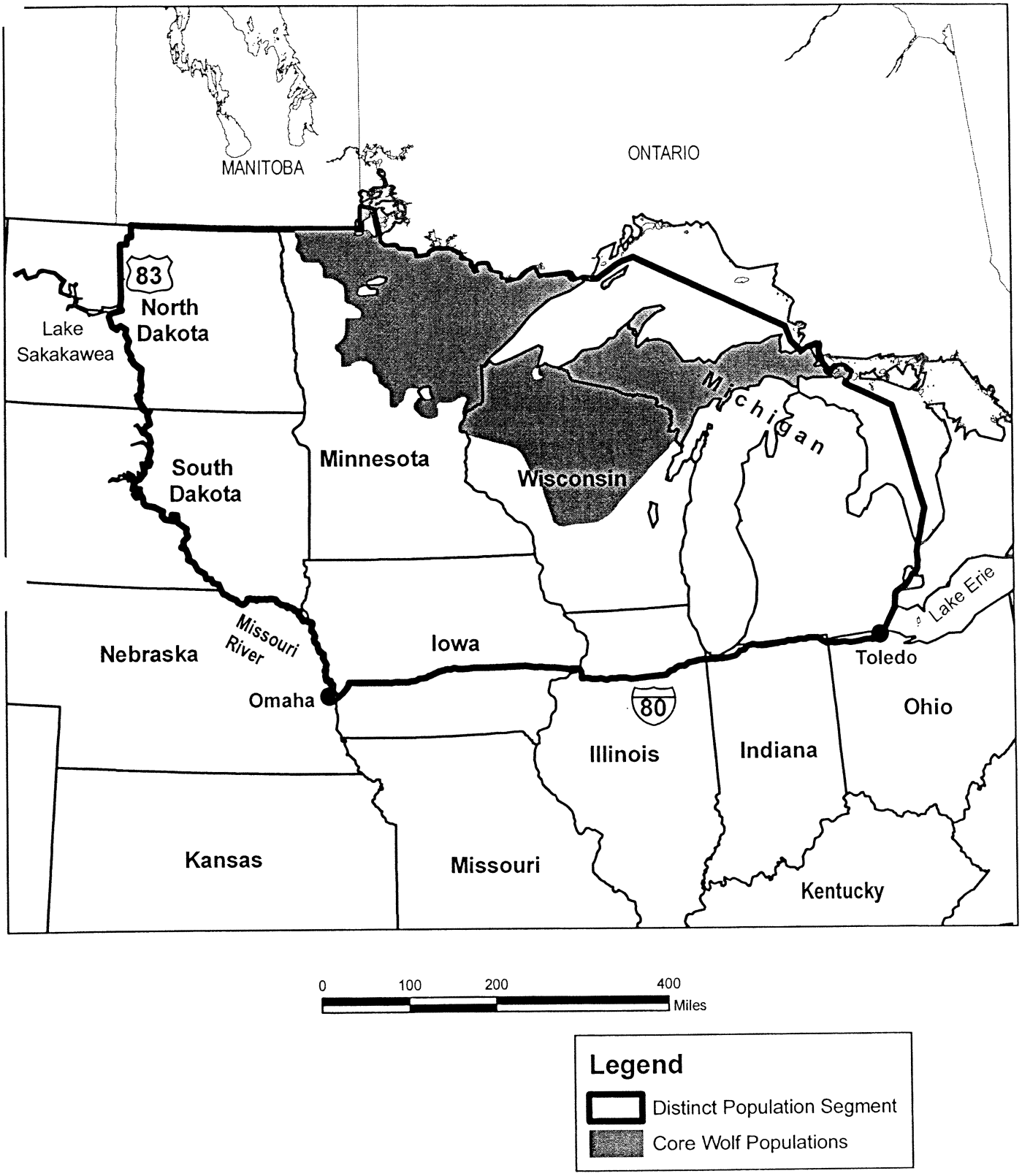
Figure 1. Western Great Lakes Distinct Population Segment



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Distinct Vertebrate Population Segment Policy Overview

Pursuant to the Act, we consider for listing any species, subspecies, or, for vertebrates, any DPS of these taxa if there is sufficient information to indicate that such action may be warranted. To interpret and implement the DPS provision of the Act and Congressional guidance, the Service and the National Marine Fisheries Service (NMFS) adopted the interagency policy and published it in the **Federal Register** on February 7, 1996 (61 FR 4722). This policy addresses the recognition of a DPS for potential listing, reclassification, and delisting actions.

Under our DPS policy, three factors are considered in a decision regarding the establishment and classification of a possible DPS. These are applied similarly for additions to the list of endangered and threatened species, reclassification of already listed species, and removals from the list. The first two factors—discreteness of the population segment in relation to the remainder of the taxon (in this case Canis lupus) and the significance of the population segment to the taxon to which it belongs bear on whether the population segment is a valid DPS. If a population meets both tests, it is then evaluated for endangered or threatened status.

Analysis for Discreteness

Under our Policy Regarding the Recognition of Distinct Vertebrate Population Segments, a population segment of a vertebrate taxon may be considered discrete if it satisfies either of the following conditions—(1) it is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

Markedly Separated From Other Populations of the Taxon—The western edge of the WGL DPS is approximately 400 mi (644 km) from the nearest known wolf packs in Wyoming and Montana. The distance between those western packs and the nearest packs within the WGL DPS is nearly 600 miles (966 km). The area between Minnesota packs and Northern Rocky Mountain packs largely consists of unsuitable habitat, with only scattered islands of possibly suitable habitat, such as the Black Hills of eastern Wyoming and western South Dakota. There are no known gray wolf populations to the south or east of the WGL DPS.

As discussed in the previous section, gray wolves are known to disperse over vast distances, but straight line documented dispersals of 400 mi (644 km) or more are very rare. While we cannot rule out the possibility of a Midwest wolf traveling 600 miles or more and joining or establishing a pack in the Northern Rockies, such a movement has not been documented and is expected to happen very infrequently, if at all. Similar movements from the NRM wolf population into the WGL DPS are unknown and are expected to happen infrequently. The 2006 Sturgis, South Dakota, wolf is the closest that an NRM wolf has come to entering the WGL DPS (Fain in litt. 2006). However, the Sturgis wolf still had over 300 mi (500 km) to travel before it would encounter the nearest WGL DPS wolf pack. As the discreteness criterion requires that the DPS be ''markedly separated'' from other populations of the taxon rather than requiring complete isolation, this high degree of physical separation between the Western Great Lakes and the Northern Rocky Mountains satisfies the discreteness criterion. Similarly, we feel it is unlikely for wolves to cross the eastern boundary into the Laurentian Mixed Habitat Province of New York, Pennsylvania, and New England due to inhospitable conditions.

Delimited by International Boundaries With Significant Management Differences Between the U.S. and Canada—This border has been used as the northern boundary of the listed entity since gray wolves were reclassified in the 48 States and Mexico in 1978. There remain significant cross-border differences in exploitation, management, conservation status, and regulatory mechanisms. More than 50,000 wolves exist in Canada, where suitable habitat is abundant, human harvest of wolves is common, Federal protection is absent, and provincial regulations provide widely varying levels of protection. In general, Canadian wolf populations are sufficiently large and healthy so that harvest and population regulation, rather than protection and close monitoring, is the management focus. There are an estimated 4,000 wolves in Manitoba (Manitoba Conservation undated). Hunting is allowed nearly province-wide, including in those provincial hunting zones adjoining northwestern Minnesota, with a current season that runs from August 28, 2006, through March 31, 2007 (Manitoba Conservation 2006a). Trapping wolves is allowed province-wide except in and immediately around Riding Mountain National Park (southwestern Manitoba), with a current season running from October 14, 2006, through February 28 or March 31, 2007 (varies with trapping zone) (Manitoba Conservation 2006b). The Ontario Ministry of Natural Resources estimates there are 8,850 wolves in the province, based on prey composition and abundance, topography, and climate. Wolf numbers in most parts of the province are believed to be stable or increasing since about 1993 (Ontario MNR 2005a, pp. 7–9). In 2005 Ontario limited hunting and trapping of wolves by closing the season from April 1 through September 14 in central and northern Ontario (Ontario MNR 2005b). In southern Ontario (the portion of the province that is adjacent to the WGL DPS), wolf hunting and trapping is permitted year around except within, and immediately around, Algonquin Provincial Park in southeastern Ontario (north of Lake Ontario) where seasons are closed all year (Ontario MNR 2005c).

We, therefore, conclude that the above-described WGL DPS boundary satisfies both conditions that can be used to demonstrate discreteness of a potential DPS.

Analysis for Significance

If we determine that a population segment is discrete, we next consider available scientific evidence of its significance to the taxon to which it belongs. Our DPS policy states that this consideration may include, but is not limited to, the following—(1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; and/or (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics. Below we address Factors 1 and 2. Factors 3 and 4 do not apply to the WGL wolf DPS and thus are not included in our analysis for significance.

Unusual or Unique Ecological Setting—Wolves within the WGL DPS occupy the Laurentian Mixed Forest Province, a biotic province that is transitional between the boreal forest and the broadleaf deciduous forest.

Laurentian Mixed Forest consists of mixed conifer-deciduous stands, pure deciduous forest on favorable sites, and pure coniferous forest on less favorable sites. Within the United States this biotic province occurs across northeastern Minnesota, northern Wisconsin, the UP, and the NLP, as well as the eastern half of Maine, and portions of New York and Pennsylvania (Bailey 1995). In the Midwest, current wolf distribution closely matches this province, except for the NLP and the Door Peninsula of Wisconsin, where wolf packs currently are absent. To the best of our knowledge, wolf packs currently do not inhabit the New England portions of the Laurentian Mixed Forest Province, nor do we expect wolves from the WGL DPS to move into them due to the vast distance between these two areas and inhospitable terrain they would need to traverse. Therefore, WGL wolves represent the only wolf packs in the United States occupying this province. Furthermore, WGL wolves represent the only use by gray wolf packs of any form of eastern coniferous or eastern mixed coniferous-broadleaf forest in the United States.

Significant Gap in the Range of the Taxon—This factor may be primarily of value when considering the initial listing of a taxon under the Act to prevent the development of a major gap in a taxon's range (''the loss of the discrete population segment would result in a significant gap in the range of the taxon'' (61 FR 4725)). However, this successful restoration of a viable wolf metapopulation to large parts of Minnesota, Wisconsin, and Michigan has filled a significant gap in the historical range of the wolf in the United States, and it provides an important extension of the range of the North American gray wolf population. The recovered Western Great Lakes wolf metapopulation is the only wolf population in the conterminous States east of the Rocky Mountains except for the red wolves being restored along the Atlantic Coast and currently holds about 80 percent of North American gray wolves that occur south of Canada.

Discrete Vertebrate Population Segment Conclusion

We conclude, based on our review of the best available scientific data, that the WGL DPS is discrete from other wolf populations as a result of physical separation and the international border with Canada. The DPS is significant to the taxon to which it belongs because it contains the only populations of the species in the Laurentian Mixed Forest Biotic Province in the United States, it contains a wolf metapopulation that fills a large gap in the historical range of the taxon; and it contains the majority of gray wolves in the conterminous States. Therefore, we have determined that this population segment of wolves satisfies the discreteness and significance criteria required to designate it as a DPS. The evaluation of the appropriate conservation status for the WGL DPS is found below.

Delineating the WGL Gray Wolf DPS

In contrast to a species or a subspecies, a DPS is a biological population that is delineated by a boundary that is based on something other than established taxonomic distinctions. Therefore, the starting point for delineating a DPS is the biological population or metapopulation, and a geographical delineation of the DPS must reasonably represent the population/metapopulation and its biological characteristics.

To delineate the boundary of the WGL DPS, we considered the current distribution of wolves in the Midwest and the characteristic movements of those wolves and of gray wolves elsewhere. We examined the available scientific data on long-distance movements, including long-distance movements followed by return movements to the vicinity of the natal pack. We concluded that wolf behavior and the nature of wolf populations require that we include within the area of the DPS some subset of known long-distance movement locations. However, as described below, wolf biology and common sense argue against the inclusion within the DPS boundary of all known or potential long-distance movements.

This analysis resulted in a WGL DPS boundary that is shown in Figure 1. As discussed below, this DPS has been delineated to include the core recovered wolf population plus a wolf movement zone around the core wolf populations. This geographic delineation is not intended to include all areas to which wolves have moved from the Great Lakes population. Rather, it includes the area currently occupied by wolf packs in Minnesota, Wisconsin, and Michigan; the nearby areas in these States, including the Northern Lower Peninsula of Michigan, in which wolf packs may become established in the foreseeable future; and a surrounding area into which Minnesota, Wisconsin, and Michigan wolves occasionally move but where persistent packs are not expected to be established because suitable habitat is rare and exists only as small patches. The area surrounding the core wolf populations includes the locations of most known dispersers from the core populations, especially the shorter and medium-distance movements from which wolves are most likely to return to the core areas and contribute to the recovered wolf population.

The WGL areas that are regularly occupied by wolf packs are well documented in Minnesota (Erb and Benson 2004, p. 12, fig. 3), Wisconsin (Wydeven *et al.* 2006, p. 33, fig. 1), and the UP of Michigan (Huntzinger et al 2005, pp. 25–27, figs. 4–6). Wolves have successfully colonized most, perhaps all, suitable habitat in Minnesota. Minnesota data from the winter of 2003–04 indicate that wolf numbers and density either have continued to increase slowly or have stabilized since 1997–98, and there was no expansion of occupied range in the State (Erb and Benson 2004, p. 7). Wisconsin wolves now occupy most habitat areas believed to have a high probability of wolf occurrence except for some areas of northeastern Wisconsin, and the State's wolf population continues to annually increase in numbers and, to a lesser degree, in area (Wydeven *et al.* 2006, p. 33). The UP of Michigan has wolf packs throughout, although the current population remains well below the estimated biological carrying capacity (Mladenoff *et al.* 1997, pp. 25–27, and figs. 5 & 7) and will likely continue to increase in numbers in the UP for at least several more years.

When delineating the WGL DPS, we had to consider the high degree of mobility shown by wolves. The dispersal of wolves from their natal packs and territories is a normal and important behavioral attribute of the species that facilitates the formation of new packs, the occupancy of vacant territories, and the expansion of occupied range by the ''colonization'' of vacant habitat. Data on wolf dispersal rates from numerous North American studies (summarized in Fuller *et al.* 2003, p. 179, Table. 6.6; Boyd and Pletscher 1999, p. 1102, Table 6) show dispersal rates of 13 to 48 percent of the individuals in a pack. Sometimes the movements are temporary, and the wolf returns to a location in or near its natal territory. In some cases a wolf may continue its movement for scores or even hundreds of miles until it locates suitable habitat, where it may establish a territory or join an existing pack. In other cases, a wolf is found dead at a distance from its original territory, leaving unanswered the questions of how far it would have gone and whether it eventually would have returned to its natal area or population.

Minnesota—The current record for a documented extra-territorial movement by a gray wolf in North America is held by a Minnesota wolf that moved a minimum (that is, the straight line distance from known starting point to most distant point) of at least 550 mi (886 km) northwest into Saskatchewan (Fritts 1983, p. 166–167). Nineteen other primarily Minnesota movements summarized by Mech (in litt. 2005) averaged 154 mi (248 km). Their minimum distance of travel ranged from 32–532 mi (53–886 km) with the minimum dispersal distance shown by known returning wolves ranging from 54 mi (90 km) to 307 mi (494 km).

Wisconsin—In 2004, a wolf tagged in Michigan was killed by a vehicle in Rusk County in northwestern Wisconsin, 295 miles (475 km) west of his original capture location in the eastern UP (Wydeven *et al.* 2005b, p. 4). A similar distance (298 mi, 480 km) was traveled by a north-central Wisconsin yearling female wolf that moved to the Rainy Lake region of Ontario during 1988–89 (Wydeven *et al.* 1995, p. 149).

Michigan—Drummer *et al.* (2002, pp. 14–15) reported 10 long-distance dispersal events involving UP wolves. One of these wolves moved to north-central Missouri and another to southeastern Wisconsin, both beyond the core wolf areas in the WGL. The average straight-line distance traveled by those two wolves was 377 mi (608 km), while the average straight-line distance for all 10 of these wolves was 232 mi (373 km). Their straight-line distances ranged from 41 to 468 mi (66 to 753 km).

Illinois and Indiana—The December 2002, Marshall County, Illinois, wolf likely dispersed from the Wisconsin wolf population, nearly 200 miles (322 km) to the north (Great Lakes Directory 2003). The Randolph County, Indiana wolf had traveled a minimum distance of at least 420 miles (676 km) to get around Lake Michigan from its central Wisconsin birthplace; it likely traveled much father than that unless it went through the city or suburbs of Chicago (Wydeven *et al.* 2004, pp. 10–11). The Pike County, Illinois, wolf that was shot in late 2005 was about 300 mi (180 km) from the nearest wolf packs in central Wisconsin.

North Dakota, South Dakota, and Nebraska—Licht and Fritts (1994, p. 77) tabulated seven gray wolves found dead in North Dakota and South Dakota from 1981 through 1992 that are believed to have originated from Minnesota, based on skull morphometrics. Although none of these wolves were marked or radio-tracked, making it impossible to determine the point of initiation of their journey, a minimum travel distance for the seven of Minnesota origin can be determined from the nearest wolf breeding range in Minnesota. For the seven, the average distance to the nearest wolf breeding range was 160 mi (257 km) and ranged from 29 to 329 mi (46 to 530 km). One of these seven wolves moved west of the Missouri River before it died.

Genetic analysis of a wolf killed in Harding County, in extreme northwestern South Dakota, in 2001 indicated that it originated from the Minnesota-Wisconsin-Michigan wolf populations (Fain in litt. 2006). The straight-line travel distance to the nearest Minnesota wolf pack is nearly 400 miles (644 km).

The wolf from the Greater Yellowstone area that was killed by a vehicle on Interstate 90 near Sturgis, SD, in March of 2006 traveled a minimum straight-line distance of about 270 mi (435 km) from the nearest known Greater Yellowstone pack before it died (USFWS *et al.* 2006, in USFWS Program Report, Figure 1).

A large canid was shot by a Boyd County, Nebraska, rancher in late 1994 or early 1995, likely after crossing the frozen Missouri River from South Dakota (Anschutz in litt. 2006, Jobman in litt. 1995. It was determined to be a wolf that originated from the Great Lakes wolf populations (Fain in litt. 2006), whose nearest pack would have been about 300 mi (480 km) away. A wolf illegally killed near Spalding, Nebraska, in December of 2002 also originated from the Minnesota-Wisconsin-Michigan wolf population, as determined by genetic analysis (Anschutz in litt. 2003, Fain in litt. 2006). The nearest Minnesota wolf pack is nearly 350 miles (563 km) from this location.

Other notable extra-territorial movements—Notable are several wolves whose extra-territorial movements were radio-tracked in sufficient detail to provide insight into their actual travel routes and total travel distances for each trek, rather than only documenting straight-line distance from beginning to end-point. Merrill and Mech (2000, pp. 429–431) reported on four such Minnesota wolves with documented travel distances ranging from 305 to 2,641 mi (490 to 4,251 km) and an average travel route length of 988 mi (1590 km). Wydeven (1994, pp. 20–22) described a Wisconsin wolf that moved from northwestern Wisconsin to the northern suburbs of St. Paul, Minnesota, for 2 weeks (apparently not seen or reported to authorities by the local residents), then moved back to north-central Wisconsin. The total travel distance was 278 mi (447 km) from her natal pack into Minnesota and on to the north-central Wisconsin location where she settled down.

While investigating the origins of Scandinavian wolf populations, Linnell *et al.* (2005, p. 387) compiled gray wolf dispersal data from 21 published studies, including many cited separately here. Twenty-two of 298 compiled dispersals (7.4 percent) were over 300 km (186 mi). Eleven dispersals (3.7 percent) were over 500 km (311 mi). Because of the likelihood that many long-distance dispersers are never reported, they conclude that the proportion of long-distance dispersers is probably severely underestimated.

From these extra-territorial movement records we conclude that gray wolf movements of over 200 miles (320 km) straight-line distance have been documented on numerous occasions, while shorter distance movements are more frequent. Movements of 300 miles (480 km) straight-line distance or more are less common, but include one Minnesota wolf that journeyed a straight-line distance of 300 mi (480 km) and a known minimum travel distance of 2,550 mi (4,251 km) before it reversed direction, as determined by its satellite-tracked collar. This wolf returned to a spot only 24 mi (40 km) from its natal territory (Merrill and Mech 2000, p. 430). While much longer movements have been documented, including some by midwestern wolves, return movements to the vicinity of natal territories have not been documented for extra-territorial movements beyond 300 mi (480 km).

Based on these extra-territorial movement data, we conclude that affiliation with the midwestern wolf population has diminished and is essentially lost when dispersal takes a Midwest wolf a distance of 250 to 300 miles (400 to 480 km) beyond the outer edge of the areas that are largely continuously occupied by wolf packs. Although some WGL wolves will move beyond this distance, available data indicate that longer distance dispersers are unlikely to return to their natal population. Therefore, they have lost their functional connection with and potential conservation value to, the WGL wolf population.

Wolves moving substantial distances outward from the core areas of Minnesota, Wisconsin, and Michigan will encounter landscape features that are at least partial barriers to further wolf movement, and that may—if crossed—impede attempts of wolves to return toward the WGL core areas. If such partial barriers are in a location that has separate utility in delineating

the biological extent of a wolf population, they can and should be used to delineate the DPS boundary. Such landscape features are the Missouri River in North Dakota and downstream to Omaha, Nebraska, and Interstate Highway 80 from Omaha eastward through Illinois, Indiana, and into Ohio, ending where this highway crosses the Maumee River in Toledo, Ohio. We do not believe these are absolute barriers to wolf movement. There is evidence that several Minnesota-origin wolves have crossed the Missouri River (Licht and Fritts 1994, pp. 75 & 77, Fig. 1 and Table 1; Anschutz in litt. 2003, 2006) and some Midwest wolves have crossed interstate highways (Merrill and Mech 2000, p. 430). There is also evidence that some wolves are hesitant to cross highways, (Whittington *et al.* 2004, pp. 7, 9; Wydeven *et al.* 2005b, p. 5; but see Blanco *et al.* 2005, pp. 315–316, 319–320 and Kohn *et al.* 2000, p. 22). Interstate highways and smaller roads are a known mortality factor for wolves and, therefore, are a partial barrier to wolf movements (Blanco *et al.* 2005, p. 320).

The recent death of a NRM wolf near Sturgis in western South Dakota (Fain in litt. 2006) suggests that the area of the Dakotas west of the Missouri River may be traversed by a small number of wolves coming from both the NRM and Great Lakes wolf populations, as well as wolves from Canada (Licht and Fritts 1994, pp. 75–77). Wolves in this area cannot be assumed to belong to the Great Lakes wolf population, supporting our belief that the DPS boundary should not be designed to include the locations of all known dispersers. As this record shows, an additional weakness of basing a DPS boundary on the location of the most distant dispersal is that it results in a boundary that is valid only until a more distant dispersal event is documented.

Peer Review

In accordance with the December 16, 2004, Office of Management and Budget's ''Final Information Quality Bulletin for Peer Review,'' we have obtained comments from at least three independent scientific reviewers regarding the scientific data and interpretations contained in the March 27, 2006, proposed rule (71 FR 15266). The purpose of such review is to ensure that our delisting proposal provided to the public and our delisting decision is based on scientifically sound data, assumptions, and analyses. Peer reviewer comments were received during the public comment period from ten individuals and were considered as we made our final decision on the proposal. Substantive peer reviewer comments are summarized in the remaining paragraphs of this section as well as discussed in greater detail in the appropriate Issue/Response sections which follow.

All ten peer reviewers have extensive biological experience with gray wolves. Most are currently involved in wolf research for the Federal Government (three individuals in two agencies), Canadian Government (one reviewer), or universities (two individuals). One reviewer is a biologist for a tribe with extensive involvement in wolf recovery and management, one leads a long-term Federal wolf depredation control program, another directs an endangered species conservation organization, and the tenth is a retired State wolf biologist. None of the peer reviewers are employed by the Service or by State agencies within the WGL DPS.

All eight peer reviewers who expressed a clear opinion supported the biological approach we used to establish the DPS and its boundaries, and they agreed that the delisting criteria have been achieved by the DPS. Three of these eight had previously opposed the proposed 2003 establishment and 2004 delisting of the much larger Eastern DPS. None of the peer reviewers stated that the currently proposed DPS boundary or delisting was inappropriate. One peer reviewer's expertise is limited to wolf diseases and causes of wolf mortality. This reviewer limited her comments to those areas. The remaining peer reviewer was unclear regarding support for, or opposition to, our biological basis for the proposed boundary of the DPS, but agreed that wolves in the Great Lakes have met the federally established delisting criteria.

In general, the peer reviewers judged the delisting proposal to be well researched, thorough, and adequate to support delisting of the WGL DPS. Except for one reviewer who stated that the State plans need greater emphasis on educating and informing the public, all comments related to State plans and our analysis of the plans indicated that the reviewers believed the State population goals were adequate and the protection and management actions contained in the plans would ensure viable wolf populations following delisting.

None of the peer reviewers expressed concerns with the expanded use of wolf control measures by the States following delisting. Several specifically stated that they were confident that the States would not allow human-caused mortality to threaten the security of viable populations within the three States. One reviewer, who has several decades of experience with wolf depredation control measures, expressed a belief that wolf control or harvest by the public will not result in excessive take of wolves.

There were no criticisms of, or recommendations to improve, the current population monitoring done by the three States. One reviewer, while noting that the Minnesota population estimate ''is probably much less accurate than [those developed by] MI or WI'' and likely overestimates the State's wolf population, went on to state that this is not a critical point and may not matter, because the Minnesota wolf population is well over the minimum number needed to delist. He also stated that ''managers have as good a dataset on wolves as just about any other species they manage, even white-tailed deer * * *.'' Another reviewer stated that the three States are using ''adequate and consistent techniques'' to develop their wolf population estimates.

There were no suggestions that other States within the DPS should be developing wolf management plans or wolf monitoring programs. However, one reviewer recommended that all States in the DPS cooperate in the documenting and reporting of wolves dispersing from the northern Minnesota, Wisconsin, and Michigan recovery areas.

Several reviewers pointed out that, while there currently is sufficient habitat that is likely to remain secure for the foreseeable future, this should be monitored by the States after delisting. The fragmentation of private industrial forests for second homes and other developments was identified as a potential future threat to occupied wolf habitat. Most reviewers pointed to the need for effective and timely monitoring of wolf numbers and wolf health following delisting.

None of the peer reviewers expressed concern that the Wisconsin and Michigan Plans—being updated and revised, respectively, at the time the delisting proposal was published—would be weakened and substantially reduce protections for the wolves in the State. However, one of the reviewers urged that the two plans be finalized prior to delisting. Two peer reviewers specifically recommended that the Service complete the post-delisting monitoring plan prior to delisting.

One reviewer supported the designation of the DPS and its delisting and said its boundaries ''do not extend delisting beyond an area that is reasonably affected by the DPS.'' However, this reviewer cautioned that

in delineating a DPS the Service should avoid over-emphasizing ''the importance of the biological (or population viability) aspect of 'significant portion of the range''' within the Act's definitions of endangered and threatened. He provided a recent co-authored scientific publication that seems to argue for a primarily quantitative approach to determining what part of a species' range is significant. This same reviewer objected to the Service's interpretation of ''range'' to mean current range, when used in the context of ''significant portion of the range.''

Regarding the Northern Lower Peninsula of Michigan, one peer reviewer indicated his belief that wolves are likely to move into habitat there and the State should allow that to happen. Another reviewer agreed with the Service that the currently unoccupied habitat in the NLP is not a significant portion of their range in the WGL DPS.

One peer reviewer supported the delisting but criticized the ''bizarre aspect'' of it that would result in wolves in areas beyond the DPS retaining the Act's protection as endangered, when ''[t]he area outside the proposed DPS is precisely the area that the Eastern Timber Wolf recovery Team believed should not harbor wolves * * *.'' The reviewer recommends delisting gray wolves in the unsuitable habitat areas beyond the WGL DPS, as well.

Summary of Comments and Recommendations

We received 360 total comments, including 310 original letters and 50 form responses based on 2 form letters. These comments included 10 that we solicited from peer reviewers, as well as verbal and written comments received at public hearings. We received comments from 40 identifiable states and the District of Columbia, as well as 5 foreign countries. Private individuals submitted 249 of the comments. Nineteen came from preservation, conservation, or animal welfare organizations, and 16 were submitted by agriculture or livestock organizations. State agency representatives or elected officials provided 12 comments, and 6 were received from Native American government agencies or organizations.

Issue 1—One commenter requested the Service double the length of the public comment period and hold additional public hearings in all ''recipient states.''

Response—The Act and implementing regulations for adding or removing species from the list of threatened and endangered species require a public comment period of at least 60 days and holding one public hearing if requested within 45 days of the publication of the proposal (50 CFR 424.16). We opened a 90-day public comment period and held four public hearings in the States that would be most affected by the proposed changes. Additionally, we facilitated public involvement in this process by providing a great deal of information on our Web site regarding wolf biology and behavior; wolf identification and wolf-dog hybrids; threats to human safety; depredation control programs; and our summaries of State wolf management plans and copies of those plans. We mailed summaries of the proposal to approximately 1,600 individuals and organizations that had previously expressed interest in wolf recovery and delisting issues, and we provided ways to submit comments via the web, e-mail, fax, and mail, as well as at the four hearings. We provided ample opportunities for interested individuals and organizations to learn about the proposal and to provide comments within the 90-day comment period and at the four hearings; therefore, we did not extend the comment period nor schedule additional hearings.

Issue 2—A number of comments expressed opposition to delisting, making statements such as ''wolves should always be protected'' by the Act, the Service ''should abandon its goal of delisting wolves in the U.S.,'' and wolves should not be delisted until ''their numbers reach exorbitant levels,'' they have reached biological carrying capacity, or wolves have overpopulated and are damaging the natural ecosystem. Other commenters wanted the critical habitat designations to remain in place after delisting to keep the Service involved in preserving habitat for a delisted species.

Response —The Act provides the Federal Government with authority to protect and recover threatened and endangered species. When a species has been recovered to the extent that it no longer meets the definition of ''threatened'' or ''endangered,'' the Act provides that it be removed from the Federal List of Endangered and Threatened Wildlife and Plants and its management be returned to the appropriate States and tribes (in cases where treaties identify such authorities for tribes). The goal of the Act is to recover and delist species that have been listed as threatened or endangered.

The gray wolf WGL DPS no longer meets the definition of threatened or endangered, because it has achieved long-standing recovery criteria by greatly expanding in numbers and geographic range and threats to its long-term viability have been reduced or eliminated. Therefore, the Act authorizes delisting the taxon, but it also requires that we continue to monitor the status of the species for a minimum of five years after delisting, and we can list it again if the monitoring results show that to be necessary.

''Critical habitat'' is a legal designation under the Act that is given to geographical areas that are essential to the conservation of a listed species. Critical habitat is designated only for endangered or threatened species, and any critical habitat designations must be removed if the taxon is removed from the Federal List of Endangered and Threatened Wildlife and Plants.

Issue 3—Numerous commenters indicated that our delisting proposal was based on unspecified political considerations, pressure from the livestock industry, exaggerated fears for human safety, pressure from deer hunters and furbearer trappers, and pressure from States. We were asked by other commenters to consider the value of wolves as an umbrella or keystone species, for keeping deer numbers in check, to maintaining healthy ungulate populations, in balancing nature, and providing a legal mechanism to protect habitat needed by other species. Others thought we should consider the economic benefits provided by a large wolf population and recognize that protecting ''the entire ecology of Minnesota'' requires that we keep wolves listed under the Act.

Response—The Act requires that listing and delisting decisions be based entirely on whether a species is endangered or threatened due to one or more categories of threats (section 4(a)(1)) and that we make this determination ''solely on the basis of the best scientific and commercial data available.'' In compliance with the Act, the other considerations and factors described above have not been used in making this decision.

Issue 4—Several commenters stated that wolf recovery should include repopulating suitable habitat in the Lower Peninsula of Michigan, or that a larger geographical area needs to be reoccupied before recovery is achieved. One comment stated that population numbers alone cannot be used ''as the sole proof of long-term recovery.'' Other commenters pointed to scientific publications that advocate larger populations with more individuals to ensure long-term viability of species, in general.

Response—The Act states that the Service will develop recovery plans and, within these recovery plans, to the maximum extent practicable, establish

''objective, measurable criteria which, when met, would result in a determination * * * that the species be removed from the list * * *.'' (section 4(f)(1)(B)(ii)). Therefore, while a delisting decision must include an evaluation of the threats to a species, we must also establish and utilize measurable criteria to assess progress towards recovery. Our delisting decision is not based on population numbers alone, but also on population distribution and threats to that population and its habitat, as required by the Act.

Issue 5—We received several comments that stated that the recovery criteria have not been achieved because either the wolf population data are wrong, and/or because the Wisconsin-Upper Peninsula wolf population is not a second population as is required by the recovery criteria found in the 1992 Recovery Plan.

Response—We, and the peer reviewers of the delisting proposal, are fully satisfied that the wolf population estimates provided by the DNRs of Minnesota, Wisconsin, and Michigan demonstrate that the numerical recovery criteria have been achieved for far longer than the five years recommended in the Federal Recovery Plan. The methods used by WI and MI DNRs result in a conservative count of the wolves that are alive at the late-winter annual low point of the wolf population. The method used by the Minnesota DNR for its much larger wolf population is less precise, but even the lower bound of its 90 percent confidence interval (CI) exceeded the Federal Recovery Plan's Minnesota goal of 1,250–1,440 wolves back as far as the 1988–89 survey (Fuller *et al.* 1992, p. 50) and the CI lower bound has been well above that goal since then (Erb and Benson 2004, table 1). Therefore, we see no problem with using these Minnesota population estimates. The Recovery Team has also expressed confidence in the population estimates of all three States (Peterson in litt.1999a, in litt. 1999b)).

The 1992 Federal Recovery Plan describes two scenarios that would satisfy its requirement for a second viable wolf population. One scenario deals with the development of an isolated wolf population; such a population must be composed of at least 200 wolves over five successive years. The second scenario is a population that is located within 100 miles of another viable wolf population; such a population must consist of only 100 wolves for five consecutive years (USFWS 1992, pp. 25–26). The Recovery Plan discusses the conservation tradeoffs of completely separate populations versus adjacent populations, and it specifically states that a wolf population larger than 100 wolves ''closely tied to the Minnesota population'' will be considered a viable population despite its small size, because of immigration of wolves from Minnesota (USFWS 1992, pp. 24–25). Although this Recovery Plan was written prior to the common acceptance and use of the conservation biology term ''metapopulation,'' this clearly was the concept being discussed and advocated in the Federal Recovery Plan. The second scenario describes what has occurred in the WGL DPS and therefore the wolves in Wisconsin and Michigan qualify as a second population.

Issue 6—Several comments stated that a DPS cannot be used for delisting a species; DPSs can only be established for listing species as threatened or endangered.

Response—DPSs can be utilized for both listing and delisting species. Section 4(a)(1) of the Act directs the Secretary of the Interior to determine whether ''any species'' is endangered or threatened. Numerous sections of the Act refer to adding and removing ''species'' from the list of threatened or endangered plants and animals. Section 3(15) defines ''species'' to include any subspecies ''and any distinct population segment of any species of vertebrate fish or wildlife * * *.'' Therefore, the Act authorizes us to list, reclassify, and delist species, subspecies, and DPSs of vertebrate species. Furthermore, our ''Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Endangered Species Act'' states that the policy is intended for ''the purposes of listing, delisting, and reclassifying species under the Endangered Species Act * * *.'' (61 FR 4722, Feb. 7, 1996), and that it ''guides the evaluation of distinct vertebrate population segments for the purposes of listing, delisting, and reclassifying under the Act.'' (61 FR 4725).

Issue 7—Several commenters, including State natural resource agencies, stated that the proposed DPS is too small and should be expanded to include all of their state (North Dakota, South Dakota, Iowa), and for Missouri, should include the northern two-thirds of the State. They expressed concerns that some gray wolves will disperse beyond the boundaries of the proposed WGL DPS, where they would have endangered status under the Act. If those wolves subsequently cause conflicts with livestock or other human activities, the States would be limited in the management or control actions that they could undertake to address the conflict.

Response—We have delineated this DPS boundary to be based solely on the wolf population in the Western Great Lakes. Suggestions to enlarge the DPS to include the locations of all known dispersers from this recovered population are not practical for several reasons. It is not possible to predict where additional long-distance dispersers will turn up. Attempting to lay out the DPS boundary so that it circumscribes all future Midwest dispersers would require either an unacceptably large DPS, or making a series of future outward boundary adjustments to reflect new dispersal locations as they occur.

Upon request we will work with the States where the gray wolf retains endangered status to identify and pursue options to deal with wolf-human conflicts that may arise there. We also point out that the Act's implementing regulations for endangered wildlife specifically allow a person to take an endangered wolf ''in defense of his own life or the lives of others'' (50 CFR 17.21(c)(3)) and provide that employees or agents of the Service, other Federal land management agencies, and State conservation agencies may take an endangered wolf that is ''a demonstrable but nonimmediate threat to human safety.'' (50 CFR 17.21(c)(3)(iv)).

Issue 8—One comment stated that the DPS should not include small areas of northern Indiana and Ohio and instead the DPS should end at the southern border of Michigan.

Response—We believe the use of I–80 is preferable to the State line for several reasons. First, the interstate highway more clearly identifies the terminus of the DPS on the ground, making it easier for an individual or for law enforcement agents to determine the legal status of a wolf in the field. Second, this major interstate highway will serve as a partial barrier to wolf dispersal out of the DPS. Therefore, this boundary makes it less likely that these two States will have to deal with dispersing gray wolves that are protected as endangered within their state. Neither State has requested the proposed boundary be modified.

Issue 9—The DPS should not include areas of suitable habitat that lack wolf packs. The DPS should not include any areas that lack wolf packs.

Response—We have established the DPS to be closely tied to the biological wolf population that has been recovered, and to be consistent with the two relevant court rulings (*Defenders of Wildlife* v. *Norton*, 03–1348–JO, D. OR 2005; *National Wildlife Federation* v. *Norton*, 1:03–CV–340, D. VT. 2005).

Wolf biology makes it unreasonable to define a wolf population, and hence a wolf DPS, solely as the area where wolf packs are present at viable levels. Any area that hosts wolf packs also is producing a substantial number of dispersing wolves, some of which return after short absences, while others travel farther and some never return. Delineation of a wolf population must recognize and account for this dispersal behavior to some degree. We believe our DPS delineation is appropriately based on the biological features of the species and the nature of a wolf population by being centered around the focal areas of the recovery program, but also including a reasonable portion of those wolves making longer distance movements from their natal areas.

We have included nearby areas that are likely to be visited by wolves that have dispersed from the core recovery areas because we believe these wolves should be considered part of that biological population while they are within a reasonable distance from the core areas. The areas of potentially suitable habitat that are currently unoccupied are relatively small, and even if occupied in the future, will not make a significant contribution to the long-term viability of the gray wolf population in the DPS or in the United States. Additionally, wolves that ultimately occupy the NLP will have dispersed from the UP, so we believe the NLP should be included within the WGL DPS.

Issue 10—One comment stated that other gray wolf DPSs should be proposed and designated simultaneously. Piecemeal designation of DPSs and delisting thwarts the intent of both the vertebrate population policy and the Act.

Response—While in some situations it may be appropriate to designate multiple DPSs simultaneously, there is no requirement in the Act or the DPS Policy to do so. The Service lists or delists species when data are available that supports a decision that best serves the conservation of the taxon.

Issue 11—Several commenters expressed the concern that delisting the WGL DPS will eliminate the possibility of wolf recovery in the northeastern United States.

Response—Following this delisting, gray wolves in the northeastern states will retain their classification as endangered under the Act, thereby preserving the possibility of efforts to restore the gray wolf to that region. It also preserves the Federal protections of the Act that would aid gray wolf restoration actions in the northeastern United States if undertaken by State or tribal agencies, and it protects gray wolves immigrating from Canada.

Issue 12—The Service must consider gray wolf subspecies when constructing DPS boundaries, and a DPS cannot include portions of the historical range of two subspecies (*C. lupus lycaon* and *C. l. nubilus*) within its boundary.

Response—The gray wolf entity that has been protected by the Act since 1978 is the species *C. lupus* in the United States and Mexico, rather than a subspecies of the gray wolf. This DPS creates a subunit of the species listing, thereby indicating that the population of the species within this geographical boundary has been recovered. It makes no reference to any gray wolf subspecies. Because the listed entity is the gray wolf, creating a DPS from a portion of the listed entity does not create or require a nexus with subspecies taxonomy.

Issue 13—Several comments suggested that a separate species of wolf may be present in the Upper Peninsula and should be recognized and protected by the Service.

Response—There are several scientific hypotheses regarding the identity of large canids in the eastern United States and adjacent Canada. One of these hypotheses suggests that the wolves in southeastern Ontario are a separate wolf species being referred to as the ''eastern wolf'' and tentatively given the scientific name *Canis lycaon.* If southeastern Ontario wolves are this separate species, those wolves may have contributed their genetic material to the wolf population in the UP via movement westward across the St. Mary's River. However, we believe the UP wolf population primarily developed from Minnesota and Wisconsin wolves that made overland movements into the UP from the west, and that wolf immigration across the St. Mary's River from the east was of much smaller magnitude. At this point there have been no published or peer-reviewed studies of the genetic makeup of UP wolves. Therefore, we will continue to consider WGL wolves to be *C. lupus.*

Issue 14—One comment applied the meaning of significance (using examples of unique ecological setting and differences in genetic characteristics) as used in our 1996 DPS Policy (61 FR 4725, Feb. 7, 1996) to the usage of ''significant'' in ''significant portion of its range'' as the phrase is used in the definitions of endangered and threatened in paragraphs 3(6) and 3(19), respectively. As a result, the comment concludes that we have not applied the DPS Policy's examples of significance during our analysis of whether wolves have been recovered to a sufficient area of the DPS.

Response—These two uses of significant/significance are context-specific, do not have the same meaning, and should not be used interchangeably. When applying the DPS policy, we are required to evaluate whether the discrete group of animals under consideration is sufficiently important to the overall taxon so that it warrants a separate listing under the Act—that is, is the population *significant* to the overall taxon. In contrast, when applying the definitions of endangered and threatened to a taxon, we are considering whether a certain area is important to that same taxon. Another way of explaining the difference is that in one case we are evaluating the importance of a group of organisms; in the other case we are assessing the value of a portion of geographic range. The evaluations are not comparable and are dependent on different factors. Therefore, we believe we are correct in our usage of these terms in this rule.

Issue 15—Wolves remain extirpated in approximately 60 percent of the DPS. This is a significant portion of the range (SPR) within the DPS; therefore, wolves remain endangered in the DPS.

Response—The determination of whether a portion of a species' range is ''significant'' is based on the biological needs of the species and the threats to the species. In making this determination we consider the quality, quantity, and distribution of suitable habitat, the use, uniqueness, and importance of the habitat, and other biological factors appropriate to the species and area under consideration. We do not focus solely, or even primarily, on a quantitative assessment, because quantity of range might have no relationship to the biological needs of the species. In the case of the gray wolf, the portions of North Dakota, South Dakota, Iowa, Illinois, Indiana, and Ohio within the WGL DPS are not significant portions of the range even though they may be sizeable pieces of historical range. These areas contain wolf habitat that is severely degraded at best, and even if they remained listed as endangered, they would not be likely to develop viable wolf populations in the foreseeable future. These areas thus are not important to the gray wolf metapopulation in Minnesota, Wisconsin, and the Upper Peninsula of Michigan. Similarly, the areas of Minnesota, Wisconsin, and Michigan that currently are unoccupied by wolves contain only small areas of potentially suitable habitat, mostly in the NLP of Michigan, and eventual wolf pack occupancy of these areas will have

minimal influence on the viability of the current recovered wolf populations in the three States. Consequently, these areas have minimal biological significance to the conservation status of gray wolves in the DPS, and they are not a SPR within the DPS.

Issue 16—The Service must consider the historical range of the gray wolf, rather than the currently occupied range, when assessing what is a ''significant part of the range'' as that phrase is used in the definitions of endangered and threatened species.

Response—For the purposes of this rule, and for determining the significant portion of the range of the gray wolf in the DPS, the Service considers the range of the gray wolf to be the entire geographical area delineated by the WGL DPS. We have clarified this in the final rule.

Issue 17—One comment stated that a rangewide recovery plan is required by the Act before any wolf delisting actions can occur.

Response—The Service has developed, implemented, and revised, as needed, three geographically based recovery plans for the gray wolf. The Act requires that we develop and implement recovery plans for listed species unless they ''will not promote the conservation of the species * * *'' (section 4(f)(1)). In its 2005 ruling, the Vermont District Court specifically commented on this issue, finding that the Service's use of ''three recovery plans for the gray wolf rather than one comprehensive plan must be afforded *Chevron* deference, and is therefore an appropriate agency course of action'' (*National Wildlife Federation* v. *Norton*, 1:03–CV–340, D. VT. 2005, p. 28).

Issue 18—A comment letter stated that the Act does not permit the creation of a WGL DPS (and Northern Rocky Mountain DPS) while maintaining the pre-existing species listing across the remaining 48 States.

Response—We believe this approach of creating a small DPS reflects the recovered status of wolves in the DPS and is consistent with the 2005 rulings (*Defenders of Wildlife* v. *Norton*, 03–1348–JO, D. OR 2005; *National Wildlife Federation* v. *Norton*, 1:03–CV–340, D. VT. 2005). The Vermont ruling stated ''Nowhere in the ESA is the Secretary prevented from creating a 'non-DPS remnant' designation, especially when the remnant area was already listed as endangered'' (*National Wildlife Federation* v. *Norton*, 1:03–CV–340, D. VT. 2005, p. 20). Our current creation of a WGL DPS, while retaining the remaining 48-state and Mexico gray wolf listing intact as endangered, is consistent with this aspect of the District Court's ruling.

Issue 19—The Service cannot delist the DPS because the gray wolf remains extirpated from 95 percent of its historical range.

Response—We have clarified in this final rule that we are only delisting the gray wolf in the WGL DPS; we are not delisting the gray wolf across its historical range in the 48 coterminous States and Mexico. We have considered only whether the gray wolf is threatened or endangered within this DPS.

Issue 20—The DPS can only delist wolves in the core recovery areas, rather than include and delist dispersing animals from those areas.

Response—A critical component of delineating the boundaries of a DPS is gaining an understanding of the population/metapopulation that is being designated as a DPS. Wolf biology clearly shows that temporary and permanent movements beyond the pack's territory are a key element of wolf population dynamics, and as such, these movements must be considered when delineating a boundary for a DPS. Furthermore, a biologically based DPS boundary cannot follow the edge of the fully occupied core areas, as this comment seems to advocate. Individual wolves would be constantly moving back and forth across such a boundary, and pack territories may form on both sides of the line in some years, and might disappear from one or both sides in subsequent years, depending on a number of physical, biological, and societal factors. We determined that the DPS boundary should recognize and accommodate the normal behavior of the population/metapopulation members.

Issue 21—The Service did not use wolf dispersal data as claimed, because wolves disperse outside of the proposed DPS boundary.

Response—In the proposed rule we did not attempt to include the locations of all known dispersing MN/WI/MI wolves within the proposed DPS, or to use the maximum known gray wolf dispersal distance to delineate the DPS boundary. We have provided further clarification in this final rule on the biological method we have used.

Issue 22—The DPS must contain a uniform biotype (the Laurentian Mixed Forest Province), or the DPS boundaries must be based on biotype or habitat boundaries, because this is what makes the WGL wolves ''significant.''

Response—A number of factors contributed to our determination that the WGL DPS was significant, only one of which included occupancy of these in the Laurentian Mixed Forest Province. However, even if the only factor contributing to ''significance'' was the Laurentian Mixed Forest Province, the DPS boundaries would not use (nor is there a requirement to use) that habitat or biotype as the boundary. As discussed in the rule, many factors concerning wolf biology were considered in establishing the WGL DPS. Limiting the DPS to one habitat type would not make sense biologically for this species.

Issue 23—Highways I–80 and the Missouri River cannot be used for DPS boundaries, because wolves cross them, making them arbitrary choices.

Response—In our proposal we described Interstate 80 and the Missouri River as being ''partial barriers,'' and we cited data showing they have been crossed by a small number of wolves (p. 15277). We did not use these features to establish the discreteness of the wolf population within the WGL DPS. Rather, we use them as readily identifiable features on the landscape that are in a biologically appropriate location for use in delineating the DPS, and they are also partial barriers to wolf movements.

Issue 24—The 1992 Service Recovery Plan is outdated, and its recovery criteria cannot be used to justify delisting.

Response—When wolf numbers in the Midwest appeared to be approaching the recovery criteria specified in the 1992 Plan, we reconvened the Recovery Team in 1997 to query them regarding the appropriateness of those criteria. The Team expressed confidence that the recovery criteria remained ''necessary and sufficient'' (Peterson in litt. 1997, in litt. 1998). Furthermore, the peer reviewers overwhelmingly supported our conclusion that the WGL DPS wolves have recovered, and they expressed no concern with the 1992 recovery criteria that were used as part of our determination.

The population goals in the 1992 Recovery Plan are not the sole determinants of whether delisting is appropriate. While the Act states that recovery plans shall contain ''objective, measurable criteria'' (sec. 4(f)(1)(B)(ii)) when practicable, achieving these criteria alone cannot result in a delisting. Rather, recovery criteria are important indicators that identify the need for consideration of delisting. The consideration of delisting is a broad review of the past, current, and likely future threats to the species, as required by the Act. The delisting decision is made based on the threats assessment, and the resulting determination of whether the species meets the Act's definition of threatened or endangered.

Issue 25—One commenter stated that increasing use of off-highway vehicles (OHV) in Minnesota and growing human populations pose serious threats to wolves, especially in the core of Minnesota's wolf range. The commenter pointed out that most of primary wolf range (*e.g.*, Management Zone A) (MN DNR 2001, Appendix III) is north of Highway 2 and that trails in these forests may be subject to few limitations to motorized use.

Response—As discussed in ''Suitable Habitat in the Western Great Lakes Gray Wolf DPS'' road density has largely been accepted as the best single predictor of habitat suitability in the Midwest due to the connection between roads and human-related wolf mortality. Off-highway vehicle trails introduce only a portion of the impacts and risk factors associated with roads, such as increased human access to areas occupied by wolves and increased likelihood of unauthorized shooting or trapping. Off-highway vehicle trails do not introduce significant levels of the other risk factors, such as more farms and residences, more domestic animals, a greater likelihood of mortality due to livestock-depredation control or vehicle collisions, and increased likelihood of disease transmission from domestic dogs. Therefore, we believe wolf populations are more sensitive to normal road infrastructure density than to OHV trail density.

MN DNR is developing recommendations for motorized use of State forest lands. In preparation for this analysis, it completed an inventory in 2004 of all State forest roads and access routes on State, county, and Federal lands within State forest boundaries—a total of 5.7 million acres. (MN DNR 2005). This inventory found an overall route density of 0.8 km per km^2, but did not differentiate between motorized and non-motorized trails (routes). MN DNR is now conducting a forest-by-forest review and proposing which roads and trails will be available for motor vehicle use. As of September 2006, MN DNR had completed reviews on 16 State forests and had closed approximately 57 percent of routes to motorized use. If this trend continues, the density of routes open to motorized use in Minnesota State forests (State forest roads and OHV trails) may approximate 0.5 km per km^2. Only 3 of the 16 forests reviewed thus far, however, are north of Highway 2 and all were either completely closed to motorized use or given a ''Limited'' use designation. As the department begins to evaluate larger, more remote northern forests, however, this trend (i.e., about 50 percent closure) may change and some forests may retain the ''managed'' classification (i.e., open unless posted closed, *OHV trail designation questions and answers*, MN DNR Division of Trails and Waterways, St. Paul, MN; *http://www.dnr.state.mn.us/input/mgmtplans/ohv/designation/index.html*.

According to the commenter, registered ATVs in Minnesota increased from 32,501 in 1990 to 266,283 in 2004. Although this is a sharp increase, the wolf population in Minnesota grew and, more recently, may have stabilized at about 3,020 wolves (Erb and Benson 2004, Table 1) during this time. Therefore, there is no clear relationship between OHV use and wolf abundance statewide. Nevertheless, we agree that the combination of growing human populations and extensive use of OHV's warrants careful monitoring and regulation to ensure that wolf populations are not adversely affected. Minnesota's wolf management plan states that ''in areas of sufficient size to sustain one or more wolf packs, land managers should be cautious about adding new road access that could exceed a density of one mile of road per square mile of land, without considering the potential effect on wolves'' (MN DNR 2001, p. 29). We expect MN DNR to continue to also consider human densities when monitoring the extent and distribution of suitable wolf habitat in the State and to take necessary actions (e.g., decreasing road density in State forests) to maintain a population of at least 1,600 gray wolves if increases in human density erode the extent of suitable habitat such that the population falls below this level.

Issue 26—A commenter pointed out that increasing volume of automobile traffic in Minnesota's wolf range will fragment habitat, increase wolf mortality, destroy habitat, displace wolves, and contribute to urban sprawl. Four examples were provided.

Response—It is clear that automobiles kill wolves on roads and highways and that wolves tend to avoid these features relative to road-free areas (Whittington *et al.* 2004, pp. 9–11; Whittington *et al.* 2005, pp. 549–551), but highways are far from absolute barriers to dispersal. For example, in a study of U.S. Highway 53 in northwest Wisconsin (4,700 vehicles per day) in the late 1990's, Kohn *et al.* (2000, p. 2) found that 12 of 13 radio-collared wolves that encountered the highway successfully crossed it, some of them multiple times, and that each of these dispersing wolves subsequently became dominant members of packs in newly established territories. In addition, the successful reestablishment of wolves in Wisconsin and Michigan depended on a sufficient number of Minnesota wolves crossing Interstate Highway 35 where current average traffic volumes are greater than 15,000 vehicles per day (*http://www.dot.state.mn.us/tda/maps/trunkhighway/2004/state_and_metro/stateflo.pdf).* Wolf crossing of roads, however, is dependent on adjacent human development and habitat fragmentation, and land managers can likely influence the ability of wolves to disperse across highways in Minnesota's wolf range by ensuring that sufficient road reaches occur in areas with high crossing potential (i.e., low fragmentation of adjacent habitat due to open or developed areas; Frair 1999, pp. 19–20).

Issue 27—Disease remains a serious threat and post-delisting disease monitoring is inadequate or unfunded. One comment states that the Michigan Plan only commits the DNR to monitor wolf health until the State wolf population reaches 200 wolves.

Response—The expectation in the 1997 Michigan Wolf Plan was that Federal wolf delisting would occur before the State reached its own minimum goal of 200 wolves. As a result, the plan states that wolf monitoring, including health and disease monitoring would continue ''at least until the minimum population sustainable population goal [of 200] is met.'' (MI DNR 1997, p. 21.) However, the 1997 Michigan Plan also states that wolf health and disease monitoring will occur ''for a minimum of five years after Federal delisting'' (MI DNR 1997 p. 21–22, 45). In fact, wolf health and disease monitoring has continued well beyond the attainment of the 200-wolf threshold, which occurred in early 1996. We believe the commenters' fear that wolf health and disease monitoring will cease upon delisting is unwarranted by the facts or by the State Plan.

Issue 28—The delisting should be delayed, or should be done in a manner to promote wolf expansion into the NLP.

Response—We believe the gray wolf has achieved recovery in the DPS and is no longer threatened or endangered. Therefore, it should be delisted with management returning to the States and tribes. Those governments and their constituents will determine if additional wolf recovery will be promoted. We will consider providing technical assistance to further State or tribal wolf recovery efforts if requested.

Issue 29—Human predation poses too high a risk to delist the wolf. The wolf cannot be delisted ''until this threat has been adequately controlled.''

Response—Our detailed review of the past, current, and likely future threats to wolves within the WGL DPS identified human-caused mortality of all forms to constitute the majority of documented wolf deaths. However, the wolf populations in Wisconsin and Michigan have continued to expand in numbers and the Minnesota wolf population is at least maintaining itself at well over the population goal recommended in the 1992 Recovery Plan and at about twice the minimum level established in the 2001 Minnesota Wolf Plan. Healthy wolf populations clearly can withstand a high level of mortality, from human and other causes, and remain viable. Although the commenters do not provide any clarification on what is meant by ''adequately controlled'' we believe that for purposes of this delisting decision, the numerical growth and range expansion shown by WGL DPS wolves indicates that ''adequate control'' already exists since the species is being maintained at healthy levels.

Issue 30—WGL DPS wolves should be reclassified to threatened instead of delisted. Another comment stated that only Minnesota wolves should be delisted now.

Response—Minnesota wolves were classified as threatened in 1978. The Act does not require endangered species to first be moved to threatened status before delisting, but for some species that intermediate step is appropriate. The WGL DPS wolf metapopulation has continued to increase to the extent that it greatly exceeds our recovery criteria, and it has exceeded our numerical delisting criteria since 1999. Therefore, we believe delisting is appropriate for this DPS.

Issue 31—It will be difficult to relist these wolves if it becomes necessary following delisting.

Response—The Act requires that we monitor the status of a delisted species for at least five years after delisting. Section 4(g) of the Act authorizes the Service to make prompt use of our emergency listing authority under section 4(b)(7) to prevent a significant risk to the well-being of any recovered species. Therefore, we believe the Act provides the authority and the requirement to relist midwestern gray wolves if necessary.

Issue 32—A large number of comments recommended that specific changes be made to the three State wolf management plans.

Response—We have reviewed the 2001 Minnesota Plan, the 1999 and 2006 Updated Wisconsin Plan, and the 1997 Michigan Plan. We reviewed these plans to determine if they will provide sufficient protection and reduce threats. We are primarily concerned with the outcome of the plan's implementation. Once a species is delisted, the details of its management are a State or tribal responsibility; the Federal responsibility is to monitor the plan's implementation and the species' response for at least five years to ensure that the plan's outcome is as expected. We have concluded that each plan provides adequate protection for wolves, and will keep threats at a sufficiently low level, so that the WGL DPS wolves will not become threatened or endangered in the foreseeable future. Suggestions for changes to the State wolf management plans should be directed to the respective State management agency for consideration.

Issue 33—Wisconsin and Michigan DNR have not completed their wolf management plans, so delisting should be delayed until after those plans are completed and they are shown to be adequate.

Response—The Wisconsin DNR did not revise its 1997 Wolf Management Plan. Instead, the plan has had some portions of the text updated, and several appendices have been added to deal with new public opinion data and a 2004 DNR questionnaire. The Plan's management goal of 350 wolves and the vast majority of management practices remain unchanged. We received the updated Wisconsin Wolf Management Plan Addendum 2006 in time to evaluate it as part of our delisting decision.

The 1997 Michigan Wolf Management Plan is in the midst of revision. The process for its revision includes obtaining recommendations in the form of ''guiding principles'' from a roundtable group composed of diverse stakeholders, and it will not be completed until late in 2007. In the meantime, the 1997 Michigan Plan will remain in effect, as supplemented by additional guidance developed since 1997 to deal with aspects of wolf management and recovery not adequately covered in the 1997 Plan, such as ''Guidelines for Management and Lethal Control of Wolves Following Confirmed Depredation Events'' (MI DNR 2005a).

Issue 34—The delisting decision is based on the assumption that the State wolf management plans will be fully implemented after Federal delisting.

Response—We are required to evaluate the likely future threats that a delisted wolf population will experience. We rely heavily on the State wolf management plans for our assessment of the degree of protection and monitoring that will occur after Federal delisting. Because these plans have received the necessary approvals within the State governments, we believe it is reasonable to assume the plans will be funded and implemented largely as written. Wisconsin and Michigan DNRs have led the efforts to restore wolves to their States for several decades, including a 1974 reintroduction effort initiated by Michigan DNR (Weise *et al.* 1975). Based on their proven leadership in Midwest wolf recovery, we see no reason to doubt the continuing commitment of these State agencies to wolf conservation.

We recognize that State wolf plans can be changed by the respective DNR or State legislature, creating some uncertainty regarding plan implementation. However, given the high public visibility of wolf management, the extent of public interest and involvement in the development and updating of the States' plans, the vast amount of scientific data available regarding wolf management, and the status monitoring that we will be maintaining for the next five years, we believe it is reasonable and proper to assume that the three State wolf plans will not be significantly changed, nor will their implementation be critically underfunded, in a manner that would jeopardize the viability of any State's wolf population. If this assumption turns out to be incorrect, we have the ability to relist the species, including an emergency relisting, if necessary.

Issue 35—Many comments expressed distrust for State wolf protection, based on past State programs aimed at wolf eradication.

Response—We acknowledge the past involvement of State and Federal government agencies in intensive, and largely successful, programs to eradicate wolves. However, we believe that public sentiment and agency mandates have changed dramatically since the 1960s and earlier. While wolf eradication might still be the wish of a small number of individuals, we believe there is broad support among the public and within governmental agencies to allow wolves to occupy our landscape, with some degree of management imposed to maintain control of the level of wolf-human conflicts. Based on existing State laws and State management plans, we will rely upon the States to provide sufficient protection to wolves until and unless it is shown they are unwilling or unable to do so.

Issue 36—The Post-Delisting Monitoring (PDM) Plan should be completed before delisting occurs.

Response—The Act requires a minimum of five years of PDM. There is no requirement that a PDM plan be

completed before delisting. We are working on a PDM plan, utilizing the expertise of the Recovery Team, and we expect to complete the plan shortly. Because past wolf monitoring by the States has been successful and adequate to document progress toward recovery, we expect that PDM will be similar to recovery monitoring. The PDM plan will organize data-gathering more than has been done in the past, and it will identify the Service office that will be responsible for initiating the data gathering and coordinating the data review.

Issue 37—Several commenters stated that the Service must ensure that State wolf management strategies accommodate tribal interests within reservation boundaries as well as honor the tribal role and authority in wolf management in the ceded territories. Furthermore, the Federal trust responsibility, as it pertains to wolf management, must be continued after delisting. They asked how, and by whom, that Federal trust responsibility will be continued after the Act no longer provides the authority for the Service to protect wolves.

Response—The Service and the Department of the Interior recognize the unique status of the federally recognized tribes, their right to self-governance, and their inherent sovereign powers over their members and territory. The Department, the Service, the Bureau of Indian Affairs (BIA), and other Federal agencies, as appropriate, will take the needed steps to ensure that tribal authority and sovereignty within reservation boundaries are respected as the States implement their wolf management plans and revise those plans in the future. Furthermore, there may be tribal activities or interests associated with the wolf encompassed within the tribes' retained rights to hunt, fish, and gather in treaty-ceded territories. The Department will assist in the exercise of those rights. If biological assistance is needed, the Service may provide it via our field offices. The Service will remain involved in the post-delisting monitoring of the gray wolf, but all Service management and protection authority under the Act will end with this delisting. Legal assistance will be provided to the tribes by the Department of the Interior, and the BIA will be involved, when needed.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for listing, reclassifying, and delisting species. A species may be listed as threatened or endangered if one or more of the five factors described in section 4(a)(1) of the Act threaten its continued existence. A species may be delisted, according to 50 CFR 424.11(d), if the best scientific and commercial data available substantiate that the species is neither endangered nor threatened because of (1) extinction, (2) recovery, or (3) error in the original data used for classification of the species.

A recovered species is one that no longer meets the Act's definition of threatened or endangered. Determining whether a species is recovered requires consideration of the same five categories of threats specified in section 4(a)(1). This analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future after its delisting and the consequent removal of the Act's protections.

For the purposes of this notice, we consider ''foreseeable future'' to be 30 years. The average gray wolf breeds at 30 months of age and replaces itself in 3 years. We used 10 wolf generations (30 years) to represent a reasonable biological timeframe to determine if impacts could be significant. This is a period for which we can make reasonable assumptions, based on recent and current observations, regarding the continuation of current trends in human attitudes and behaviors, regulatory mechanisms, and environmental factors that will be the primary determinants of threats to wolf populations in the future. In addition, 30 years closely approximates the duration of the Service's wolf recovery program in the Midwest. It is reasonable to apply what we have learned regarding wolf recovery and human societal responses to that recovery to a similar period in the future.

A species is ''endangered'' for purposes of the Act if it is in danger of extinction throughout all or a ''significant portion of its range'' and is ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a ''significant portion of its range.'' The following describes how we interpret the terms ''range'' and ''significant'' as used in the phrase ''significant portion of its range,'' and explains the bases for our use of those terms in this rule.

''Range''

The word ''range'' in the phrase ''significant portion of its range'' refers to the range in which a species currently exists, not to the historical range of the species where it once existed. The context in which the phrase is used is crucial. Under the Act's definitions, a species is ''endangered'' only if it ''is in danger of extinction'' in the relevant portion of its range. The phrase ''is in danger'' denotes a present-tense condition of being at risk of a future, undesired event. To say that a species ''is in danger'' in an area that is currently unoccupied, such as unoccupied historical range, would be inconsistent with common usage. Thus, ''range'' must mean ''currently occupied range,'' not ''historical range.'' This interpretation of ''range'' is further supported by the fact that section 4(a)(1)(A) of the Act requires us to consider the ''present'' or ''threatened'' (i.e., future), rather than the past, ''destruction, modification, or curtailment'' of a species' habitat or range in determining whether a species is endangered or threatened.

However, the Ninth Circuit Court of Appeals appeared to conclude, without any analysis or explanation, that the ''range' referred to in the SPR phrase includes the historical range of the species. The court stated that a species ''can be *extinct* 'throughout * * * a significant portion of its range' if there are major geographical areas in which it is no longer viable but once was,'' and then faults the Secretary for not ''at least explain[ing] her conclusion that the area in which the species can no longer live is not a significant portion of its range.'' *Defenders of Wildlife* v. *Norton*, 258 F.3d 1136, 1145 (emphasis added). This would suggest that the range we must analyze in assessing endangerment includes unoccupied historical range—i.e., the places where the species was once viable but no longer exists.

The statute does not support this interpretation. This interpretation is based on what appears to be an inadvertent misquote of the relevant statutory language. In addressing this issue, the Ninth Circuit states that we must determine whether a species is ''extinct throughout * * * a significant portion of its range.'' *Id.* If that were true, we would have to study the historical range. But that is not what the statute says, and the Ninth Circuit quotes the statute correctly elsewhere in its opinion. Under the Act, we are not to determine if a species is ''extinct throughout * * * a significant portion of its range,'' but are to determine if it ''is in danger of extinction throughout * * * a significant portion of its range.'' A species cannot presently be ''in danger of extinction'' in that portion of its range where it ''was once viable but no longer is''—if by the latter phrase the court meant lost historical habitat. In that portion of its range, the species has

by definition ceased to exist. In such a situation, it is not ''in danger of extinction''; it is extinct.

Although we must focus on the range in which the species currently exists, data about the species' historical range and how the species came to be extinct in that location may be relevant in understanding or predicting whether a species is ''in danger of extinction'' in its current range and therefore relevant to our 5 factor analysis. But the fact that it has ceased to exist in what may have been portions of its historical range does not necessarily mean that it is ''in danger of extinction'' in a significant portion of the range where it currently exists.

For the purposes of this notice, we consider the range of the gray wolf to be the entire geographical area delineated by the boundaries of the WGL DPS.

''Significant''

The Act does not clearly indicate what portion(s) of a species' range should be considered ''significant.'' Most dictionaries list several definitions of ''significant.'' For example, one standard dictionary defines ''significant'' as ''important,'' ''meaningful,'' ''a noticeably or measurably large amount,'' or ''suggestive'' (Merriam-Webster's Collegiate Dictionary 1088 10th ed. 2000). If it means a ''noticeably or measurably large amount,'' then we would have to focus on the size of the range in question, either in relation to the rest of the range or perhaps even in absolute terms. If it means ''important,'' then we would have to consider factors in addition to size in determining a portion of a species' range is ''significant.'' For example, would a key breeding ground of a species be ''significant,'' even if it was only a small part of the species' entire range?

One district court interpreted the term to mean ''a noticeably or measurably large amount'' without analysis or any reference to other alternate meanings, including ''important'' or ''meaningful.'' *Defenders of Wildlife* v. *Norton*, 239 F. Supp. 2d 9, 19 (D.D.C. 2002). We consider the court's interpretation to be unpersuasive, because the court did not explain why we could not employ another, equally plausible definition of ''significant.'' It is impossible to determine from the word itself, even when read in the context of the entire statute, which meaning of ''significant'' Congress intended. Moreover, even if it were clear which meaning was intended, ''significant'' would still require interpretation. For example, if it were meant to refer to size, what size would be ''significant'': 30 percent, 60 percent, 90 percent? Should the percentage be the same in every case or for each species? Moreover, what factors, if any, would be appropriate to consider in making a size determination? Is size all by itself ''significant,'' or does size only become ''significant'' when considered in combination with other factors? On the other hand, if ''significant'' were meant to refer to importance, what factors would need to be considered in deciding that a particular portion of a species' range is ''important'' enough to trigger the protections of the Act?

Where there is ambiguity in a statute, as with the meaning of ''significant,'' the agency charged with administering the statute, in this case the Service, has broad discretion to resolve the ambiguity and give meaning to the term. As the Supreme Court has stated:

> In *Chevron*, this Court held that ambiguities in statutes within an agency's jurisdiction to administer are delegations of authority to the agency to fill the statutory gap in reasonable fashion. Filling these gaps, the Court explained, involves difficult policy choices that agencies are better equipped to make than courts. If a statute is ambiguous, and if the implementing agency's construction is reasonable, *Chevron* requires a federal court to accept the agency's construction of the statute, even if the agency's reading differs from what the court believes is the best statutory interpretation.
>
> *Nat'l Cable & Telecomms. Ass'n* v. *Brand X Internet Servs.*, 545 U.S. 967, 980 (2005) (internal citations omitted).

We have broad discretion in defining what portion of a species' range is ''significant.'' No ''bright line'' or ''predetermined'' percentage of historical range loss is considered ''significant'' in all cases, and we may consider factors other than simply the size of the range portion in defining what is ''significant.'' In light of the general ecosystems conservation purposes and findings in section 2 of the Act, our goal is to define ''significant'' in such a way as to ensure the conservation of the species protected by the Act. In determining whether a range portion is significant, we consider the ecosystems on which the species that use that range depend as well as the values listed in the Act that would be impaired or lost if the species were to become extinct in that portion of the range or in the range as a whole.

However, our discretion in defining ''significant'' is not unlimited. The Ninth Circuit Court of Appeals, while acknowledging that we have ''a wide degree of discretion in delineating'' what portion of a range is ''significant,'' appeared to set outer limits of that discretion. *See Defenders of Wildlife* v. *Norton*, 258 F.3d 1136. On the one hand, it rejected what it called a quantitative approach to defining ''significant,'' where a ''bright line'' or ''predetermined'' percentage of historical range loss is considered ''significant'' in all cases. 258 F.3d. at 1143. As the court explained:

> First, it simply does not make sense to assume that the loss of a predetermined percentage of habitat or range would necessarily qualify a species for listing. A species with an exceptionally large historical range may continue to enjoy healthy population levels despite the loss of a substantial amount of suitable habitat. Similarly, a species with an exceptionally small historical range may quickly become endangered after the loss of even a very small percentage of habitat.

The Ninth Circuit concluded that what is ''significant'' must ''necessarily be determined on a case by case basis,'' and must take into account not just the size of the range but also the biological importance of the range to the species. 258 F.3d. at 1143. At the other end of the spectrum, the Ninth Circuit rejected what it called ''the faulty definition offered by the Secretary,'' a definition that holds that a portion of a species' range is ''significant'' only if the threats faced by the species in that area are so severe as to threaten the viability of the species as a whole. 258 F.3d. at 1143, 1146. It thus appears that within the two outer boundaries set by the Ninth Circuit, we have wide discretion to give the definitive interpretation of the word ''significant'' in the phrase ''significant portion of its range.''

Based on these principles, we consider the following factors in determining whether a portion of a range is ''significant''—quality, quantity, and distribution of habitat relative to the biological requirements of the species; the historical value of the habitat to the species; the frequency of use of the habitat; the uniqueness or importance of the habitat for other reasons, such as breeding, feeding, migration, wintering, or suitability for population expansion; genetic diversity; and other biological factors. We focus on portions of a species' range that are important to the conservation of the species, such as ''recovery units'' identified in approved Section 4 recovery plans; unique habitat or other ecological features that provide adaptive opportunities that are of conservation importance to the species; and ''core'' populations that generate additional individuals of a species that can, over time, replenish depleted populations or stocks at the periphery of the species' range. We do not apply the

term ''significant'' to portions of the species' range that constitute less-productive peripheral habitat, artificially created habitat, or areas where wildlife species have established themselves in urban or suburban settings—such portions of the species' range are not ''significant,'' in our view, to the conservation of the species in the wild.

Determining the SPR for the WGL DPS of the gray wolf is based on the biological needs of the species in the DPS. As discussed previously in our proposed WGL wolf rule (71 FR 15266–15305; March 27, 2006), wolves are highly adaptable habitat generalists, and their primary biological need is an adequate natural prey base of large ungulates. The primary current and likely future threats to wolves are excessive human-caused mortality and increased mortality from diseases and parasites. Therefore, our determination of the SPR for the WGL DPS of the gray wolf is primarily based on the portion of the DPS that provides an adequate wild prey base, suitably low levels of human-caused mortality, and sufficient representation, resiliency, and redundancy to buffer the impacts of disease and parasite-induced mortality.

These biological needs, and the threats to gray wolves in the WGL DPS, are discussed in the following paragraphs addressing the five factors specified in section 4(a)(1) of the Act. We describe the necessary characteristics of suitable habitat and the necessary size and distribution of such habitat for it to constitute a SPR in the WGL DPS. Areas of habitat within the range of the gray wolf that are not suitable, or are not of sufficient size or appropriate geographic distribution, are not an SPR of the DPS.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

A common misperception is that wolves inhabit only remote portions of pristine forests or mountainous areas, where human developments and other activities have produced negligible change to the natural landscape. Their extirpation south of Canada and Alaska, except for the heavily forested portions of northeastern Minnesota, reinforced this popular belief. Wolves, however, survived in those areas not because those were the only places with the necessary habitat conditions, but because only in those remote areas were they sufficiently free of the human persecution that elsewhere killed wolves faster than the species could reproduce (Mech 1995a, pp. 271).

In the western Great Lakes region, wolves in the densely forested northeastern corner of Minnesota have expanded into the more agricultural portions of central and northwestern Minnesota, northern and central Wisconsin, and the entire UP of Michigan. Habitats currently being used by wolves span the broad range from the mixed hardwood-coniferous forest wilderness area of northern Minnesota, through sparsely settled, but similar habitats in Michigan's UP and northern Wisconsin, and into more intensively cultivated and livestock-producing portions of central and northwestern Minnesota and central Wisconsin.

Wolf research and the expansion of wolf range over the last three decades have shown that wolves can successfully occupy a wide range of habitats, and they are not dependent on wilderness areas for their survival. In the past, gray wolf populations occupied nearly every type of habitat north of mid-Mexico that contained large ungulate prey species, including bison, elk, white-tailed deer, mule deer, moose, and woodland caribou; thus, wolves historically occupied the entire Midwest. Inadequate prey density or high levels of human-caused mortality appear to be the only factors that limit wolf distribution (Mech 1995a, p. 271; 1995b, p. 544).

Suitable Habitat Within the Western Great Lakes Gray Wolf DPS

Various researchers have investigated habitat suitability for wolves in the central and eastern portions of the United States. In recent years, most of these efforts have focused on using a combination of human density, deer density or deer biomass, and road density, or have used road density alone to identify areas where wolf populations are likely to persist or become established. (Mladenoff *et al.* 1995, pp. 284–285, 1997, pp. 23–27, 1998, pp. 1–8, 1999, pp. 39–43; Harrison and Chapin 1997, p. 3, 1998, pp. 769–770; Wydeven *et al.* 2001a, pp. 110–113; Erb and Benson 2004, p. 2; Potvin *et al.* 2005, pp. 1661–1668).

Road density has largely been adopted as the best predictor of habitat suitability in the Midwest due to the connection between roads and human-related wolf mortality. Several studies demonstrated that wolves generally did not maintain breeding packs in areas with a road density greater than about 0.9 to 1.1 linear miles per sq mi (0.6 to 0.7 km per sq km) (Thiel 1985, pp. 404–406; Jensen *et al.* 1986, pp. 364–366; Mech *et al.* 1988, pp. 85–87; Fuller *et al.* 1992, pp. 48–51). Work by Mladenoff and associates indicated that colonizing wolves in Wisconsin preferred areas where road densities were less than 0.7 mi per sq mi (0.45 km per sq km) (Mladenoff *et al.* 1995, p. 289). However, recent work in the UP of Michigan indicates that in some areas with low road densities, low deer density appears to separately limit wolf occupancy (Potvin *et al.* 2005, pp. 1667–1668) and may prevent recolonization of portions of the UP. In Minnesota a combination of road density and human density is used by MN DNR to model suitable habitat. Areas with a human density up to 8 per sq km are suitable if they also have a road density less than 0.5 km per sq km. Areas with a human density of less than 4 per sq km are suitable if they have road densities up to 0.7 km per sq km (Erb and Benson 2004, p. 2).

Road density is a useful parameter because it is easily measured and mapped, and because it correlates directly and indirectly with various forms of other human-related wolf mortality factors. A rural area with more roads generally has a greater human density, more vehicular traffic, greater access by hunters and trappers, more farms and residences, and more domestic animals. As a result, there is a greater likelihood that wolves in such an area will encounter humans, domestic animals, and various human activities. These encounters may result in wolves being hit by motor vehicles, being controlled by government agents after becoming involved in depredations on domestic animals, being shot intentionally by unauthorized individuals, being trapped or shot accidentally, or contracting diseases from domestic dogs (Mech *et al.* 1988, pp. 86–87; Mech and Goyal 1993, p. 332; Mladenoff *et al.* 1995, p. 282, 291). Based on mortality data from radio-collared Wisconsin wolves from 1979 to 1999, natural causes of death predominate (57 percent of mortalities) in areas with road densities below 1.35 mi per sq mi (0.84 km per sq km), but human-related factors produced 71 percent of the wolf deaths in areas with higher road densities (Wydeven *et al.* 2001a, pp. 112–113).

Some researchers have used a road density of 1 mi per sq mi (0.6 km per sq km) of land area as an upper threshold for suitable wolf habitat. However, the common practice in more recent studies is to use road density to predict probabilities of persistent wolf pack presence in an area. Areas with road densities less than 0.7 mi per sq mi (0.45 km per sq km) are estimated to have a greater than 50 percent probability of wolfpack colonization and persistent presence, and areas

where road density exceeded 1 mi per sq mi (0.6 km per sq km) have less than a 10 percent probability of occupancy (Mladenoff *et al.* 1995, pp. 288–289; Mladenoff and Sickley 1998, p. 5; Mladenoff *et al.* 1999, pp. 40–41). Wisconsin researchers view areas with greater than 50 percent probability ''primary wolf habitat,'' areas with 10 to 50 percent probability as ''secondary wolf habitat,'' and areas with less than 10 percent probability as unsuitable habitat (WI DNR 1997, pp. 47–48). The territories of packs that do occur in areas of high road density, and hence with low expected probabilities of occupancy, are generally near broad areas of more suitable habitat that are likely serving as a source of wolves, thereby assisting in maintaining wolf presence in the higher road density, less suitable, areas (Mech 1989, pp. 387–388; Wydeven *et al.* 2001a, p.112). We note that the predictive ability of this model has recently been questioned (Mech 2006a, 2006b) and responded to (Mladenoff *et al.* 2006), and that an updated analysis of Wisconsin pack locations and habitat has been completed and is being prepared for publication (Mladenoff *et al.*, to be submitted).

It appears that essentially all suitable habitat in Minnesota is now occupied, and the wolf population within the State may have slowed its increase or has stabilized (Erb and Benson 2004, p. 7). This suitable habitat closely matches the areas designated as Wolf Management Zones 1 through 4 in the Federal Recovery Plan (USFWS 1992, p. 72), which are identical in area to Minnesota Wolf Management Zone A (see Figure 2, below; MN DNR 2001, Appendix III).

Recent surveys for Wisconsin wolves and wolf packs show that wolves have now recolonized the areas predicted by habitat models to have high and moderate probability of occupancy (primary and secondary wolf habitat). The late winter 2005–06 Wisconsin wolf survey identified packs occurring throughout the central Wisconsin forest area (Wolf Management Zone 2, Figure 3) and across the northern forest zone (Zone 1, Figure 3), with highest pack densities in the northwest and north central forest; pack densities are lower, but increasing, in the northeastern corner of the State (Wydeven *et al.* 2006, p. 33).

Michigan wolf surveys in winter 2003–04 and 2004–05 continue to show wolf pairs or packs (defined by Michigan DNR as three or more wolves traveling together) in every UP county except Keweenaw County (Huntzinger *et al.* 2005, p. 6), which probably lacks a suitable ungulate prey base during winter months (Potvin *et al.* 2005, p. 1665).

Such habitat suitability studies in the Upper Midwest indicate that the only large areas of suitable or potentially suitable habitat areas that are currently unoccupied by wolves are located in the NLP of Michigan (Mladenoff *et al.* 1997, p. 23; Mladenoff *et al.* 1999, p. 39; Potvin 2003, pp. 44–45; Gehring and Potter 2005, p. 1239). One published Michigan study (Gehring and Potter 2005, p. 1239) estimates that these areas could host 46 to 89 wolves, while a masters degree thesis investigation estimates that 110–480 wolves could exist in the NLP (Potvin 2003, p. 39). The NLP is separated from the UP by the Straits of Mackinac, whose 4-mile (6.4 km) width freezes during mid- and late winter in some years. In recent years there have been two documented occurrences of wolves in the NLP (the last recorded wolf in the LP was in 1910), but no indication of persistence beyond several months. In the first instance a radio-collared female wolf from the central UP was trapped and killed by a coyote trapper in Presque Isle County in late October 2004. In late November 2004, tracks from two wolves were verified in the same NLP county. Follow-up winter surveys by the DNR in early 2005 failed to find additional wolf tracks in the NLP (Huntzinger *et al.* 2005, p. 7); additional surveys conducted in February and March 2006 also failed to find evidence of continued NLP wolf presence (Beyer *et al.* 2006, p. 35).

These NLP patches of potentially suitable habitat contain a great deal of private land, are small in comparison to the occupied habitat on the UP and in Minnesota and Wisconsin, and are intermixed with agricultural and higher road density areas (Gehring and Potter 2005, p. 1240). Therefore, continuing wolf immigration from the UP may be necessary to maintain a future NLP population. The Gehring and Potter study (p. 1239) concludes that NLP suitable habitat (*i.e.*, areas with greater than a 50 percent probability of wolf occupancy) amounts to 850 sq mi (2,198 sq km). Potvin, using deer density in addition to road density, believes there are about 3,090 sq mi (8,000 sq km) of suitable habitat in the NLP (Potvin 2003, p. 21). Gehring and Potter exclude from their calculations those NLP low-road-density patches that are less than 19 sq mi (50 sq km), while Potvin does not limit habitat patch size in his calculations (Gehring and Potter 2005, p. 1239; Potvin 2003, pp. 10–15). Both of these area estimates are well below the minimum area described in the Federal Recovery Plan, which states that 10,000 sq mi (25,600 sq km) of contiguous suitable habitat is needed for a viable isolated gray wolf population, and half that area (5,000 sq mi or 12,800 sq km) is needed to maintain a viable wolf population that is subject to wolf immigration from a nearby population (USFWS 1992, pp. 25–26).

Based on the above-described studies and the guidance of the 1992 Recovery Plan, the Service has concluded that suitable habitat for wolves in the WGL DPS can be determined by considering four factors—road density, human density, prey base, and size. An adequate prey base is an absolute requirement, but in much of the WGL DPS the white-tailed deer density is well above adequate levels, causing the other factors to become the determinants of suitable habitat. Prey base is primarily of concern in the UP where severe winter conditions cause deer to move away from some lakeshore areas, making otherwise suitable areas locally and seasonally unsuitable. Road density and human density frequently are highly correlated; therefore, road density is the best single predictor of habitat suitability. However, areas with higher road density may still be suitable if the human density is very low, so a consideration of both factors is sometimes useful (Erb and Benson 2004, p. 2). Finally, although the territory of individual wolf packs can be relatively small, a single, or several, packs are not likely to persist as a viable population if they occupy a small isolated island of otherwise suitable habitat. The 1992 Recovery Plan indicates that a wolf population needs to occupy at least 10,000 contiguous sq mi (25,600 sq km) to be considered viable if it is isolated from other wolf populations, and must occupy at least half that area if it is not isolated from another self-sustaining population (USFWS 1992, pp. 25–26).

In summary, Minnesota Wolf Management Zone A (Federal Wolf Management Zones 1–4, Figure 2), Wisconsin Wolf Zones 1 and 2 (Figure 3), and the Upper Peninsula of Michigan contain suitable wolf habitat. The other areas within the DPS are unsuitable habitat, or are potentially habitat that is too small or too fragmented to be suitable for maintaining a viable wolf population.

Determining the Significant Portion of the Range Within the WGL DPS

The biological values of the various portions of the suitable habitat in the DPS are the important considerations for determining what constitutes SPR. Portions of the range that contribute minimally to the long-term viability of

a species are likely to be insignificant, even if those areas constitute geographically large portions of the species' range. On the other hand, a small portion of the range that is necessary for a species' survival (*e.g.*, the nesting areas of a wide-ranging colonially nesting bird) is a significant portion of its range regardless of its size. Significance of portions of the range must be evaluated in a case-by-case context, and not only in a quantitative or theoretical context.

Therefore, in determining the SPR within the WGL DPS we considered the factors listed above. These include the quality, quantity, and distribution of the habitat relative to the biological needs of the species, the need to maintain the remaining genetic diversity, the importance of geographic distribution in coping with catastrophes such as disease, the ability of the habitat to provide adequate wild prey, and the need to otherwise meet the conservation needs of the species.

It is generally recognized that Minnesota, Wisconsin, and Michigan provide the only sufficiently large areas in the Midwest having an adequate wild ungulate prey base and low road and human density for this DPS (USFWS 1992, pp. 56–58). Based on the biology of the gray wolf, threats to its continued existence, and conservation biology principles, the federal Recovery Plan specifies that two populations (or what equates to a single metapopulation) are needed to ensure long-term viability (see Recovery Criteria, above). The Recovery Plan states the importance of a large wolf population throughout Minnesota Wolf Management Zones 1 through 4 (geographically identical to Zone A in the 2001 Minnesota Wolf Management Plan, see Figure 2 in this rule) and the need for a second viable wolf population occupying 10,000 sq mi or 5,000 sq mi elsewhere in the eastern United States (depending on its isolation from the Minnesota wolf population) (USFWS 1992, pp. 24–29). These portions of Minnesota (Management Zones 1 through 4) and the portions of the range that support the second viable wolf population (Wisconsin Zones 1 and 2 and the entire Upper Peninsula of Michigan) are a SPR in the WGL DPS.

The Recovery Plan also discusses the importance of low-road-density areas, the importance of minimizing wolf-human conflicts, and the maintenance of an adequate natural prey base in the areas hosting these two necessary wolf populations. The Recovery Plan, along with numerous other scientific publications, supports the need to manage and reduce wolf-human conflicts. The Recovery Plan specifically recommends against managing wolves in large areas of unsuitable habitat, stating that Minnesota Zone 5 should be managed with a goal of zero wolves there, because ''Zone 5 is not suitable for wolves. Wolves found there should be eliminated by any legal means'' (USFWS 1992, p 20). Therefore, the Recovery Plan views Zone 5 (identical to Minnesota Wolf Management Zone B, Figure 2), which is roughly 60 percent of the State, as not an important part of the range of the gray wolf. This portion of the State is predominantly agricultural land, with high road densities, and high potential for wolves to depredate on livestock. Although individual wolves and some wolf packs occupy parts of Zone 5, these wolves are using habitat islands or are existing in other situations where conditions generally are not conducive to their long-term persistence. Therefore, Minnesota Wolf Management Zone B (Recovery Plan Zone 5) is not a significant portion of the range within the DPS.

The second population, necessary to enhance both the resiliency and redundancy of the WGL DPR, has developed by naturally recolonizing suitable habitat areas in Wisconsin and the UP (see Recovery of the Gray Wolf in the Western Great Lakes Area, above). In Wisconsin, suitable habitat (delineated as Zones 1 and 2 in Figure 3) is now largely occupied by wolf packs, but there are some gaps in the northeastern part of the State in Zone 1 where there appears to be room for additional packs to occupy areas between existing packs (Wydeven *et al.* 2006, p. 33). Similarly, in the UP of Michigan, wolf pairs or packs occur throughout the area identified as suitable (i.e., a high probability of wolf pack occupancy; Mladenoff *et al.* 1995, p. 287, Potvin *et al.* 2005, p. 1666), including every county of the UP except possibly Keweenaw County. Wolf density is lower in the northern and eastern portions of the UP where lower deer numbers may prevent establishment of packs in some localities (Potvin *et al.* 2005, pp. 1665–1666), but over the next several years packs may be able to fill in some of the currently unoccupied areas. Based on the suitability of the habitat in these areas and the importance of this second population to long-term wolf population viability, Wisconsin Zones 1 and 2 (see Figure 3) and the entire UP of Michigan are an SPR of the gray wolf WGL DPS.

The NLP of Michigan appears to have the only unoccupied potentially suitable wolf habitat in the Midwest that is of sufficient size to maintain wolf packs (Gehring and Potter 2005, p. 1239; Potvin 2003, pp. 44–45), although its small size and fragmented nature may mean that NLP wolf population viability would be dependent upon continuing immigration from the UP. The only part of Michigan's Lower Peninsula that warrants any consideration for inclusion as suitable habitat for the WGL DPS is composed of those areas of fragmented habitat studied by Potvin (2003, pp. 44–45) and Gehring and Potter (2005, p. 1239). However, these areas amount to less than half of the minimum area identified by the Recovery Plan as needed for the establishment of viable populations. These Lower Peninsula areas therefore might have difficulty maintaining wolf populations even with the help of occasional immigration of wolves from the UP (see *Suitable Habitat Within the Western Great Lakes Gray Wolf DPS* for additional discussion). While the UP wolves may be significant to any Lower Peninsula wolf population that may develop (occasional UP to Lower Peninsula movements may provide important genetic and demographic augmentation crucial to a small population founded by only a few individuals), the reverse will not be true—Lower Peninsula wolves would not be important to the wolf population in the UP. Thus, we conclude that the Northern Lower Peninsula is not a significant portion of the range of the gray wolf in the WGL DPS.

The only area outside these three states and within the WGL DPS that potentially might hold wolves on a frequent or possibly constant basis is the Turtle Mountain region that straddles the international border in north central North Dakota in the northwestern corner of the DPS. Road densities within the Turtle Mountains are below the thresholds believed to limit colonization by wolves. However, this area is only about 579 sq mi (1,500 sq km), with approximately 394 sq mi (1,020 sq km) in North Dakota, and roughly 185 sq mi (480 sq km) in Manitoba (Licht and Huffman 1996, p. 172). This area is far smaller that the 10,000 sq mi of habitat considered minimally necessary to support an isolated wolf population (USFWS 1992, pp. 25–26). Furthermore, the Manitoba portion of the Turtle Mountains is outside the currently listed area for the gray wolf and outside this WGL DPS. While this area may provide a small area of marginal wolf habitat and may support limited and occasional wolf reproduction, the Turtle Mountain area within the United States is not an SPR of gray wolves within the WGL DPS, because of its very small area

and its setting as an island of forest surrounded by a landscape largely modified for agriculture and grazing (Licht and Huffman 1996, p. 173).

Similarly, other portions of the WGL DPS that lack suitable habitat, or only have areas of suitable habitat that are below the area thresholds specified in the Recovery Plan and/or are highly fragmented, cannot be considered an SPR of the gray wolf in the WGL DPS. These areas include the rest of eastern North Dakota, South Dakota, Iowa, Illinois, Indiana, Ohio, Wisconsin Wolf Management Zones 3 and 4 (see Figure 3), and most of the LP of Michigan. While large areas of historical range within the DPS boundary are either unoccupied by the species or occupied only on a transient basis, these areas are almost completely lacking suitable habitat, and there is little likelihood that they could ever support viable wolf populations. For example, of the five States partially included in the WGL DPS, the eastern halves of North Dakota and South Dakota arguably contain the best potential area for wolf recovery because of their low human population densities. Yet even there, the landscape is predominantly cropland and grazing land, the result of massive conversion from the native prairies where gray wolves once hunted bison, and it is covered with a network of public roads. Road density in eastern South Dakota is approximately 1.68 mi per sq mi, and the South Dakota Department of Transportation states that figure likely does not include the many section line roads that are open to public travel but are not on a regular maintenance schedule (Larson in litt. 2006b). The landscape of North Dakota is similar, with merely two percent of the State forested, resulting in a cropland-dominated landscape in eastern North Dakota that provides negligible cover for wolf use in denning and escape, except in the Turtle Mountains. The road density across the portion of North Dakota within the WGL DPS is 1.01 mi per sq mi (Barnhardt in litt. 2006). A finer-grained analysis (Moffett 1997, p. 31) shows that only small and scattered areas are below the 1 mi per sq mi threshold established by Great Lakes area researchers (Mladenoff *et al.,* 1995, pp. 288–289) as needed for the maintenance of viable wolf populations, and none of these areas of lower road density come close to the minimum size identified by the Recovery Plan (USFWS 1992, pp. 25–26) for a viable wolf population. In the open grazing and cropland-dominated landscape of the eastern Dakotas, it is likely that viable wolf populations would require even lower road densities than the threshold established by researchers in the much more wooded landscapes of Minnesota, Wisconsin, and the UP. Therefore, the eastern portions of South Dakota and North Dakota do not provide suitable gray wolf habitat and these areas cannot be considered to be significant portions of gray wolf range in the WGL DPS.

In summary, the areas that we determine to be a significant portion of the range of the WGL DPS are Minnesota Wolf Management Zone A (Figure 2), Wisconsin Zones 1 and 2 (Figure 3), and the entire Upper Peninsula of Michigan. These areas constitute the SPR in the DPS, because they fully meet the biological needs of the species and provide the conditions and land base to counter the threats to the wolf population within the DPS. The other areas of the WGL DPS do not constitute significant portions of the range of the gray wolf.

Wolf Populations on Federal Lands

National forests, and the prey species found in their various habitats, have been important to wolf conservation and recovery in the core areas of the WGL DPS. There are five national forests with resident wolves (Superior, Chippewa, Chequamegon-Nicolet, Ottawa, and Hiawatha National Forests) in Minnesota, Wisconsin and Michigan. Their wolf populations range from approximately 20 on the Nicolet portion of the Chequamegon-Nicolet National Forest in northeastern Wisconsin, to 160–170 on the UP's Ottawa National Forest, to an estimated 465 (in winter of 2003–04) on the Superior National Forest in northeastern Minnesota (Lindquist in litt. 2005). Nearly half of the wolves in Wisconsin currently use the Chequamegon portion of the Chequamegon-Nicolet National Forest.

Voyageurs National Park, along Minnesota's northern border, has a land base of nearly 882 km^2 (340 mi^2). There are 40 to 55 wolves within 7 to 11 packs that exclusively or partially reside within the park, and at least 4 packs are located wholly inside the Park boundaries (Holbeck in litt. 2005, based on 2000–2001 data).

Within the boundaries of the WGL DPS, we currently manage seven units within the National Wildlife Refuge System with significant wolf activity. Primary among these are Agassiz National Wildlife Refuge (NWR), Tamarac NWR, and Rice Lake NWR in Minnesota; Seney NWR in the UP of Michigan; and Necedah NWR in central Wisconsin. Agassiz NWR has had as many as 20 wolves in 2 to 3 packs in recent years. In 1999, mange and illegal shootings reduced them to a single pack of five wolves and a separate lone wolf. Since 2001, however, two packs with a total of 10 to 12 wolves have been using the Refuge. About 60 percent of the packs' territories are located on the Refuge or on adjacent State-owned wildlife management area (Huschle in litt. 2005). Tamarac NWR has 2 packs, with a 15-year average of 12 wolves in one pack; adults and an unknown number of pups comprise the second pack (Boyle, in litt. 2005). Rice Lake NWR, in Minnesota, has one pack of nine animals using the Refuge in 2004; in 2005, the pack had at least 6 individuals. Other single or paired wolves pass through the Refuge frequently (Stefanski pers. comm. 2004; McDowell in litt. 2005). In 2003, Seney NWR had one pack with two adults and two pups; in 2005 there were two pairs of wolves and several lone individuals using the Refuge (Olson in litt. 2005). Necedah NWR currently has 2 packs with at least 13 wolves in the packs (Trick in litt. 2005). Over the past ten years, Sherburne and Crane Meadows NWRs in central Minnesota have had intermittent, but reliable, observations and signs of individual wolves each year. To date, no established packs have been documented on either of those Refuges. The closest established packs are within 15 miles of Crane Meadows NWR at Camp Ripley Military Installation and 30 miles north of Sherburne NWR at Mille Lacs State Wildlife Management Area (Holler in litt. 2005).

Suitable Habitat Ownership and Protection

In Minnesota, public lands, including national forests, a national park, national wildlife refuges, tax-forfeit lands (managed mostly by counties), State forests, State wildlife management areas, and State parks, encompass approximately 42 percent of current wolf range. American Indians and Tribes own 3 percent, an additional 1,535 square miles (2,470 sq km), in Minnesota's wolf range (see Erb and Benson 2004, table 1). In its 2001 *Minnesota Wolf Management Plan*, MN DNR states that it ''will continue to identify and manage currently occupied and potential wolf habitat areas to benefit wolves and their prey on public and private land, in cooperation with landowners and other management agencies'' (MN DNR 2001, p. 25). MN DNR will monitor deer and moose habitat and, when necessary and appropriate, improve habitat for these species. MN DNR maintains that several large public land units of State parks and State forests along the Wisconsin border will likely ensure that the

connection between the two States' wolf populations will remain open to wolf movements. Nevertheless, MN DNR stated that it would cooperate with Wisconsin Department of Natural Resources to incorporate the effects of future development ''into long-term viability analyses of wolf populations and dispersal in the interstate area'' (MN DNR 2001, p.27).

The MN DNR Divisions of Forestry and Wildlife directly administer approximately 5,330 square miles of land in Minnesota's wolf range. DNR has set goals of enlarging and protecting its forested land base by, in part, ''minimizing the loss and fragmentation of private forest lands'' (MN DNR 2000, p. 20) and by connecting forest habitats with natural corridors (MN DNR 2000, p. 21). It plans to achieve these goals and objectives via several strategies, including the development of (Ecological) Subsection Forest Resource Management Plans (SFRMP) and to expand its focus on corridor management and planning.

In 2005 the Forest Stewardship Council (FSC) certified that 4.84 million acres of State-administered forest land are ''well managed'' (FSC 2005); the Sustainable Forestry Initiative (SFI) also certified that MN DNR was managing these lands to meet its standards. For the FSC certification, independent certifiers assessed forest management against FSC's Lakes States Regional Standard, which includes a requirement to maximize habitat connectivity to the extent possible at the landscape level (FSC 2005, p. 22).

Efforts to maximize habitat connectivity in the range of gray wolves would complement measures the MN DNR described in its State wolf plan (MN DNR 2001, pp. 26–27). As part of its post-delisting monitoring, the Service will review certification evaluation reports issued by FSC to assess MN DNR's ongoing efforts in this area.

Counties manage approximately 3,860 square miles of tax forfeit land in Minnesota's wolf range (MN DNR unpublished data). We are aware of no specific measures that any county in Minnesota takes to conserve wolves. If most of the tax-forfeit lands are maintained for use as timber lands or natural areas, however, and if regional prey levels are maintained, management specifically for wolves on these lands will not be necessary. MN DNR manages ungulate populations ''on a regional basis to ensure sustainable harvests for hunters, sufficient numbers for aesthetic and nonconsumptive use, and to minimize damage to natural communities and conflicts with humans such as depredation of agricultural crops'' (MN DNR 2001, p. 17). Moreover, although counties may sell tax-forfeit lands subject to Minnesota State law, they generally manage these lands to ensure that they will retain their productivity as forests into the future. For example, Crow Wing County's mission for its forest lands includes the commitment to ''sustain a healthy, diverse, and productive forest for future generations to come.'' In addition, at least four counties in Minnesota's wolf range—Beltrami, Carlton, Koochiching, and St. Louis—are certified by SFI, and four others (Aitkin, Cass, Itasca, and Lake) have been certified by FSC. About ten private companies with industrial forest lands in Minnesota's wolf range have also been certified by FSC.

There are no legal or regulatory requirements for the protection of wolf habitat, per se, on private lands in Minnesota. Land management activities such as timber harvest and prescribed burning carried out by public agencies and by private land owners in Minnesota's wolf range incidentally and significantly improves habitat for deer, the primary prey for wolves in the State. The impact of these measures is apparent from the continuing high deer densities in Minnesota's wolf range. The State's three largest deer harvests have occurred in the last three years (2003–05), and approximately one-half of the Minnesota deer harvest is in the Forest Zone, which encompasses most of the occupied wolf range in the State (Lennarz 2005, p. 93, 98).

Given the extensive public ownership and management of land within Minnesota's wolf range, as well as the beneficial habitat management expected from tribal lands, we believe suitable habitat, and especially an adequate wild prey base, will remain available to the State's wolf population for the foreseeable future. Management of private lands for timber production will provide additional habitat suitable for wolves and white-tailed deer.

Similarly, current lands in northern and central Wisconsin that are judged to be primary and secondary wolf habitat are well protected from significant adverse development and habitat degradation due to public ownership and/or protective management that preserves the habitat and wolf prey base. Primary habitat (that is, areas with greater than 50 percent probability of wolf pack occupancy, Wydeven *et al.* 1999, pp. 47–48) totals 5,743 sq mi (14,874 sq km) and is 62 percent in Federal, State, Tribal, or county ownership. County lands, mostly county forests, comprise 29 percent of the primary habitat and Federal lands, mostly the Chequamegon-Nicolet National Forest, total another 17 percent. Most tribal land (7 percent of primary habitat), while not public land, is also very likely to remain as suitable deer and wolf habitat for the foreseeable future. State forest ownership protects 8 percent. Private industrial forest management practices will protect another 10 percent of the primary habitat, although unpredictable timber markets and the demand for second or vacation home sites may reduce this acreage over the next several decades. The remaining 29 percent is in other forms of private ownership and is vulnerable to loss from the primary habitat category to an unknown extent (Sickley in litt. 2006, unpublished data updating Table C2 of WI DNR 1999, p. 48).

Areas judged to be secondary wolf habitat by Wisconsin DNR (10 to 50 percent probability of occupancy by wolf packs, Wydeven *et al.* 1999, pp. 47–48) are somewhat more developed or fragmented habitats and are less well protected overall, because only slightly over half is in public ownership or under management that protects the habitat and prey base. Public and tribal ownership protects 48 percent of the secondary habitat, with county (17 percent) and national (18 percent) forests ownership again protecting the largest segments. Tribal ownership covers 5 percent, and state ownership, 7 percent. Private industrial forest ownership provides protection to 5 percent, and the remaining 47 percent is in other forms of private ownership (Sickley in litt. 2006).

County forest lands represent the single largest category of primary wolf habitat in Wisconsin. Wisconsin Statute 28.11 guides the administration of county forests, and directs management for production of forest products together with recreational opportunities, wildlife, watershed protection and stabilization of stream flow. This Statute also provides a significant disincentive to conversion for other uses. Any proposed withdrawal of county forest lands for other uses must meet a standard of a higher and better use for the citizens of Wisconsin, and be approved by two-thirds of the County Board. As a result of this requirement, withdrawals are infrequent, and the county forest land base is actually increasing.

This analysis shows that nearly three-quarters of the primary habitat in Wisconsin receives substantial protection due to ownership and/or management for sustainable timber production. Over half of the secondary

habitat is similarly protected. Given that portions of the primary habitat in northeastern Wisconsin remain sparsely populated with wolf packs (Wydeven *et al.* 2006, p. 33), thereby allowing for continuing wolf population expansion in that area, we believe this degree of habitat protection is more than adequate to support a viable wolf population in Wisconsin for the foreseeable future.

In the UP of Michigan, State and Federal ownership comprises 2.0 and 2.1 million acres respectively, representing 19.3 percent and 20.1 percent of the land surface of the UP. The Federal ownership is composed of 87 percent national forest, 8 percent national park, and 5 percent national wildlife refuge. The management of these three categories of Federal land is discussed elsewhere, but clearly will benefit gray wolves and their prey.

State lands on the UP are 94 percent State forest land, 6 percent State park, and less than 1 percent in fishing and boating access areas and State game areas. Part 525, Sustainable Forestry on State Forestlands, of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, directs State forestland management in Michigan. It requires the MI DNR to manage the State forests in a manner consistent with sustainable forestry, to prepare and implement a management plan, and to seek and maintain a third party certification that the lands are managed in a sustainable fashion (MI DNR 2005c, p. 1).

Much of the private land on the UP is managed or protected in a manner that will maintain forest cover and provide suitable habitat for wolves and white-tailed deer. Nearly 1.9 million acres of large-tract industrial forest lands and another 1.9 million acres of smaller private forest land are enrolled in the Commercial Forest Act (CFA). These 3.7 million acres are managed for long-term sustainable timber production under forest management plans written by certified foresters; in return, the landowners benefit from a reduction in property taxes. In addition, nearly 37,000 acres on the UP are owned by The Nature Conservancy, and continue to be managed to restore and preserve native plant and animal communities. Therefore, these private land management practices currently are preserving an additional 36 percent of the UP as suitable habitat for wolves and their prey species.

In total, 39 percent of the UP is federally- and State-owned land whose management will benefit wolf conservation for the foreseeable future, and another 36 percent is private forest land that is being managed, largely under the incentives of the CFA, in a way that provided provides suitable habitat and prey for wolf populations. Therefore, a minimum of nearly three-quarters of the UP should continue to be suitable for gray wolf conservation, and we do not envision UP habitat loss or degradation as a problem for wolf population viability in the foreseeable future.

Hearne *et al.* (2003), determined that a viable wolf population (one having less than 10 percent chance of extinction over 100 years), should consist of at least 175 to 225 wolves (p. 170), and they modeled various likely scenarios of habitat conditions in the UP of Michigan and northern Wisconsin through the year 2020 to determine whether future conditions would support a wolf population of that size. Most scenarios of future habitat conditions resulted in viable wolf populations in each State through 2020. When the model analyzed the future conditions in the two States combined, all scenarios produced a viable wolf population through 2020. Their scenarios included increases in human population density, changes in land ownership that may result in decreased habitat suitability, and increased road density (pp. 101–151).

The large areas of unsuitable habitat in the eastern Dakotas; the northern portions of Iowa, Illinois, Indiana, and Ohio; and the southern areas of Minnesota, Wisconsin, and Michigan; as well as the relatively small areas of unoccupied potentially suitable habitat, do not constitute a SPR for the WGL DPS. Therefore, we have determined that the existing and likely future threats to wolves outside the currently occupied areas, and especially to wolves outside of Minnesota, Wisconsin, and the UP, do not rise to the level that they threaten the long-term viability of wolf populations in Minnesota, Wisconsin, and the UP of Michigan.

In summary, wolves currently occupy the vast majority of the suitable habitat in the WGL DPS, which constitutes the SPR within the WGL DPS, and that habitat is adequately protected for the foreseeable future. Unoccupied areas that have the characteristics of suitable habitat exist in small and fragmented parcels and are not likely to develop viable wolf populations. Threats to those habitat areas, which are not a SPR within the WGL SPR, will not adversely impact the recovered wolf metapopulation in the DPS.

Prey

Wolf density is heavily dependent on prey availability (e.g., expressed as ungulate biomass, Fuller *et al.* 2003, pp. 170–171), but prey availability is not likely to threaten wolves in the WGL DPS. Conservation of primary wolf prey in the WGL DPS, white-tailed deer and moose, is clearly a high priority for State conservation agencies. As Minnesota DNR points out in its wolf management plan (MN DNR 2001, p. 25), it manages ungulates to ensure a harvestable surplus for hunters, nonconsumptive users, and to minimize conflicts with humans. To ensure a harvestable surplus for hunters, MN DNR must account for all sources of natural mortality, including loss to wolves, and adjust hunter harvest levels when necessary. For example, after severe winters in the 1990's, MN DNR modified hunter harvest levels to allow for the recovery of the local deer population (MN DNR 2001, p. 25). In addition to regulation of human harvest of deer and moose, MN DNR also plans to continue to monitor and improve habitat for these species. Land management carried out by other public agencies and by private land owners in Minnesota's wolf range, including timber harvest and prescribed fire, incidentally and significantly improves habitat for deer, the primary prey for wolves in the State. The success of these measures is apparent from the continuing high deer densities in the Forest Zone of Minnesota, and the fact that the State's three largest deer harvests have occurred in the last three years. Approximately one-half of the Minnesota deer harvest is in the Forest Zone, which encompasses most of the occupied wolf range in the State (Lennarz 2005, p. 93). There is no indication that harvest of deer and moose or management of their habitat will significantly depress abundance of these species in Minnesota's core wolf range. Therefore, prey availability is not likely to endanger gray wolves in the foreseeable future in the State.

Similarly, the deer populations in Wisconsin and the UP of Michigan are at historically high levels. Wisconsin's pre-season deer population has exceeded 1 million animals since 1984 (WI DNR undated a), and hunter harvest has exceeded 400,000 deer in 9 of the last 11 years (WI DNR undated b). Michigan's 2005 pre-season deer population was approximately 1.7 million deer, with about 336,000 residing in the UP, and the 2006 estimates projects slightly higher UP deer populations (MI DNR 2006b, pp. 2–4) . Currently MI DNR is proposing revised deer management goals to guide management of the deer population through 2010. The proposed UP 2006–2010 goal range is 323,000 to 411,000

(MI DNR 2005d), which would maintain, or possibly increase, the current ungulate prey base for UP wolves. Short of a major, and unlikely, shift in deer management and harvest strategies, there will be no shortage of prey for Wisconsin and Michigan wolves for the foreseeable future.

Summary of Factor A—The wolf population in the WGL DPS currently occupies all the suitable habitat area identified for recovery in the Midwest in the 1978 and 1992 Recovery Plans, which are the SPR within the DPS, and most of the potentially suitable habitat in the WGL DPS. Unsuitable habitat, and the small fragmented areas of suitable habitat away from these core areas, are areas where viable wolf populations are unlikely to develop and persist. Although they may have been historical habitat, many of these areas are no longer suitable for wolves, and none of them are important to meet the biological needs of the species. They therefore are not a SPR of the WGL DPS.

The WGL DPS wolf population exceeds its numerical, temporal, and distributional goals for recovery. A delisted wolf population would be safely maintained above recovery levels for the foreseeable future within the SPR of the DPS. Because much important wolf habitat in the SPR is in public ownership, the States will continue to manage for high ungulate populations, and the States, Tribes, and Federal land management agencies will adequately regulate human-caused mortality of wolves and wolf prey. This will allow these three States to easily support a recovered and viable wolf metapopulation into the foreseeable future. We conclude that gray wolves within the SPR in this DPS are not in danger of extinction now, or likely to be in danger of extinction in the foreseeable future, as a result of destruction, modification, or curtailment of the species' habitat or range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Threats to wolves resulting from scientific or educational purposes are not likely to increase substantially following delisting of the DPS, and any increased use for these purposes will be regulated and monitored by the States and Tribes in the core recovery areas. Since their listing under the Act, no gray wolves have been legally killed or removed from the wild in any of the nine States included in the WGL DPS for either commercial or recreational purposes. Some wolves may have been illegally killed for commercial use of the pelts and other parts, but we think that illegal commercial trafficking in wolf pelts or parts and illegal capture of wolves for commercial breeding purposes is rare. State wolf management plans for Minnesota, Wisconsin, and Michigan ensure that wolves will not be killed for these purposes for many years following Federal delisting, so these forms of mortality will not emerge as new threats upon delisting. See Factor D for a detailed discussion of State wolf management plans, and for applicable regulations in States lacking wolf management plans.

We do not expect the use of wolves for scientific purposes to increase in proportion to total wolf numbers in the WGL DPS after delisting. Prior to delisting, the intentional or incidental killing, or capture and permanent confinement, of endangered or threatened gray wolves for scientific purposes has only legally occurred under permits or subpermits issued by the Service (under section 10(a)(1)(A)) or by a State agency operating under a cooperative agreement with the Service pursuant to section 6 of the Act (50 CFR 17.21(c)(5) and 17.31(b)). Although exact figures are not available, throughout the conterminous 48 States, such permanent removals of wolves from the wild have been very limited and probably comprise an average of not more than two animals per year since the species was first listed as endangered. In the WGL DPS, these animals were either taken from the Minnesota wolf population during long-term research activities (about 15 gray wolves) or were accidental takings as a result of research activities in Wisconsin (4 to 5 mortalities and 1 long-term confinement) and in Michigan (2 mortalities) (Berg in litt. 1998; Mech in litt. 1998; Roell in litt. 2004, in litt. 2005a).

The Minnesota DNR plans to encourage the study of wolves with radio-telemetry after delisting, with an emphasis on areas where they expect wolf-human conflicts and where wolves are expanding their range (MN DNR 2001, p. 19). Similarly, Wisconsin and Michigan DNRs will continue to trap wolves for radio-collaring, examination, and health monitoring for the foreseeable future (WI DNR 1999, pp. 19–21; MI DNR 1997, p. 22; WI DNR 2006a, p. 14). The continued handling of wild wolves for research, including the administration of drugs, may result in some accidental deaths of wolves. We believe that capture and radio-telemetry-related injuries or mortalities will not increase significantly above the level observed before delisting in proportion to wolf abundance; adverse effects to wolves associated with such activities have been minimal and would not constitute a threat to the WGL DPS.

No wolves have been legally removed from the wild for educational purposes in recent years. Wolves that have been used for such purposes are the captive-reared offspring of wolves that were already in captivity for other reasons, and this is not likely to change as a result of Federal delisting. We do not expect taking for educational purposes to constitute any threat to Midwest wolf populations for the foreseeable future.

See Factor E for a discussion of taking of gray wolves by Native Americans for religious, spiritual, or traditional cultural purposes. See the Depredation Control Programs sections under Factor D for discussion of other past, current, and potential future forms of intentional and accidental take by humans, including depredation control, public safety, and under public harvest. While public harvest may include recreational harvest, it is likely that public harvest will also serve as a management tool, so it is discussed in Factor D.

Summary of Factor B—Taking wolves for scientific or educational purposes in the other WGL DPS States may not be regulated or closely monitored in the future, but the threat to wolves in those States will not be significant to the long-term viability of the wolf population in the WGL DPS. The potential limited commercial and recreational harvest that may occur in the DPS will be regulated by State and/or Tribal conservation agencies and is discussed under Factor D. Therefore, we conclude that overutilization for commercial, recreational, scientific, or educational purposes will not be a threat sufficient to cause the WGL DPS gray wolves to be in danger of extinction in the foreseeable future in all or a significant portion of the range within the WGL DPS.

C. Disease or Predation

Disease

Many diseases and parasites have been reported for the gray wolf, and several of them have had significant impacts during the recovery of the species in the 48 conterminous States (Brand *et al.* 1995, p. 419; WI DNR 1999, p. 61). If not monitored and controlled by States, these diseases and parasites, and perhaps others, may threaten gray wolf populations in the future. Thus, to avoid a future decline caused by diseases or parasites, States and their partners will have to diligently monitor the prevalence of these pathogens in order to effectively respond to significant outbreaks.

Canine parvovirus (CPV) is a relatively new disease that infects wolves, domestic dogs, foxes, coyotes, skunks, and raccoons. Recognized in the United States in 1977 in domestic dogs, it appeared in Minnesota wolves (based upon retrospective serologic evidence) live-trapped as early as 1977 (Mech *et al.* 1986, p. 105). Minnesota wolves, however, may have been exposed to the virus as early as 1973 (Mech and Goyal 1995, p. 568). Serologic evidence of gray wolf exposure to CPV peaked at 95 percent for a group of Minnesota wolves live-trapped in 1989 (Mech and Goyal 1993, p. 331). In a captive colony of Minnesota wolves, pup and yearling mortality from CPV was 92 percent of the animals that showed indications of active CPV infections in 1983 (Mech and Fritts 1987, p. 6), demonstrating the substantial impacts this disease can have on young wolves. It is believed that the population impacts of CPV occur via diarrhea-induced dehydration leading to abnormally high pup mortality (WI DNR 1999, p. 61). CPV has been detected in nearly every wolf population in North America including Alaska (Bailey *et al.* 1995, p. 443) and exposure in wolves is now believed to be almost universal.

There is no evidence that CPV has caused a population decline or has had a significant impact on the recovery of the Minnesota gray wolf population. Mech and Goyal (1995, p. 566, Table 1, p. 568, Fig. 3), however, found that high CPV prevalence in the wolves of the Superior National Forest in Minnesota occurred during the same years in which wolf pup numbers were low. Because the wolf population did not decline during the study period, they concluded that CPV-caused pup mortality was compensatory, that is, it replaced deaths that would have occurred from other causes, especially starvation of pups. They theorized that CPV prevalence affects the amount of population increase and that a wolf population will decline when 76 percent of the adult wolves consistently test positive for CPV exposure. Their data indicate that CPV prevalence in adult wolves in their study area increased by an annual average of 4 percent during 1979–93 and was at least 80 percent during the last 5 years of their study (Mech and Goyal 1995, pp. 566, 568). Additional data gathered since 1995, currently in preparation for publication, suggests that CPV has been reducing pup survival both in the Superior National Forest and statewide, between 1984 and 2004; however, statewide there is some evidence of a slight increase in pup survival since about 1995. These conclusions are based upon an inverse relationship between pup numbers in summer captures and seroprevalence of CPV antibodies in summer-captured adult wolves (Mech in litt. 2006). These data provide strong justification for continuing population and disease monitoring.

Wisconsin DNR, in conjunction with the U.S. Geological Survey National Wildlife Health Center in Madison, Wisconsin (formerly the National Wildlife Health Laboratory), has an extensive dataset on the incidence of wolf diseases, beginning in 1981. Canine parvovirus exposure was evident in 5 of 6 wolves tested in 1981, and probably stalled wolf population growth in Wisconsin during the early and mid-1980s when numbers there declined or were static; at that time 75 percent of 32 wolves tested positive for CPV. During the following years of population increase (1988–96) only 35 percent of the 63 wolves tested positive for CPV (WI DNR 1999, p. 62). More recent exposure rates for CPV continue to be high in Wisconsin wolves, with annual rates ranging from 60 to 100 percent among wild wolves handled from 2001 through mid-2005. Part of the reason for high exposure percentages is likely an increased emphasis in sampling pups and Central Forest wolves starting in 2001, so comparisons of post- and pre-2001 data are of limited value. CPV appears not to be a significant cause of mortality, as only a single wolf (male pup) is known to have died from CPV during this period (Wydeven and Wiedenhoeft 2002, p. 8 Table 4; 2003a, pp. 11–12 Table 4; 2004a, pp. 11–12 Table 5; 2005, pp. 19–20 Table 4; 2006, pp. 23–25 Table 4). While the difficulty of discovering CPV-killed pups must be considered, and it is possible that CPV-caused pup mortality is being underestimated, the continuing increase of the Wisconsin wolf population indicates that CPV mortality is no longer impeding wolf population growth in the State. It may be that many Wisconsin wolves have developed some degree of resistance to CPV, and this disease is no longer a significant threat in the State.

Similar to Wisconsin wolves, serological testing of Michigan wolves captured from 1992 through 2001 (most recent available data) shows that the majority of UP wolves have been exposed to CPV. Fifty-six percent of 16 wolves captured from 1992 to 1999 and 83 percent of 23 wolves captured in 2001 showed antibody titers at levels established as indicative of previous CPV exposure that may provide protection from future infection from CPV (Beheler in litt. undated, in litt. 2004). There are no data showing any CPV-caused wolf mortality or population impacts to the gray wolf population on the UP, but few wolf pups are handled in the UP (Hammill in litt. 2002, Beyer in litt. 2006a), so low levels of CPV-caused pup mortality may go undetected there. Mortality data are primarily collected from collared wolves, which until recently received CPV inoculations. Therefore, mortality data for the UP should be interpreted cautiously.

Sarcoptic mange is caused by a mite (*Sarcoptes scabiei*) infection of the skin. The irritation caused by the feeding and burrowing mites results in scratching and then severe fur loss, which in turn can lead to mortality from exposure during severe winter weather. The mites are spread from wolf to wolf by direct body contact or by common use of ''rubs'' by infested and uninfested animals. Thus, mange is frequently passed from infested females to their young pups, and from older pack members to their pack mates. In a long-term Alberta, Canada, wolf study, higher wolf densities were correlated with increased incidence of mange, and pup survival decreased as the incidence of mange increased (Brand *et al.* 1995, p. 428).

From 1991 to 1996, 27 percent of live-trapped Wisconsin wolves exhibited symptoms of mange. During the winter of 1992–93, 58 percent showed symptoms, and a concurrent decline in the Wisconsin wolf population was attributed to mange-induced mortality (WI DNR 1999, p. 61). Seven Wisconsin wolves died from mange from 1993 through October 15, 1998, and severe fur loss affected five other wolves that died from other causes. During that period, mange was the third largest cause of death in Wisconsin wolves, behind trauma (usually vehicle collisions) and shooting (Thomas in litt. 1998). Largely as a result of mange, pup survival was only 16 percent in 1993, compared to a normal 30 percent survival rate from birth to one year of age.

Mange continues to be prevalent in Wisconsin, especially in the central Wisconsin wolf population. Mortality data from closely monitored radio-collared wolves provides a relatively unbiased estimate of mortality factors, especially those linked to disease or illegal actions, because nearly all carcasses are located within a few days of deaths. Diseased wolves suffering from hypothermia or nearing death generally crawl into dense cover and may go undiscovered if they are not radio-tracked (Wydeven *et al.* 2001b, p. 14). These data show that during the period of 2000 through August 2006

mange has killed as many wolves as were killed by illegal shooting, making them the two highest causes of wolf mortality in the State. Based on mortality data from closely monitored radio-collared wolves, mange mortality ranged from 14 percent of deaths in 2002 to 30 percent of deaths in 2003, totaling 27 percent of radio-collared wolf deaths for this period. Illegal shootings resulted in the death of an identical percentage of wolves (Wydeven and Wiedenhoeft 2001, p. 8, Table 5; 2002, p. 8, Table 4; 2003a, pp. 11–12, Table 4; 2004a, pp. 11–12, Table 5; 2005, pp. 19–20, Table 4). Preliminary data for 2006 show mange mortality and illegal shooting remain equal at 30 percent of radio-collared wolf mortality (Wydeven in litt. 2006c, unpublished data). Mange mortality does not appear to be declining in Wisconsin, and the incidence of mange may be on the increase among central Wisconsin wolf packs (Wydeven *et al.* 2005b, p. 6). However, not all mangy wolves succumb; other observations showed that some mangy wolves are able to survive the winter (Wydeven *et al.* 2001b, p. 14).

The survival of pups during their first winter is believed to be strongly affected by mange. The highest to date wolf mortality (30 percent of radio-collared wolves; Wydeven and Wiedenhoeft 2004a, p. 12) from mange in Wisconsin in 2003 may have had more severe effects on pup survival than in previous years. The prevalence of the disease may have contributed to the relatively small population increase in 2003 (2.4 percent in 2003 as compared to the average 18 percent to that point since 1985). However, mange has not caused a decline in the State's wolf population, and even though the rate of population increase has slowed in recent years, the wolf population continues to increase despite the continued prevalence of mange in Wisconsin wolves. Although mange mortality may not be the primary determinant of wolf population growth in the State, the impacts of mange in Wisconsin need to be closely monitored as identified and addressed in the Wisconsin wolf management plan (WI DNR 1999, p. 21; 2006a, p. 14).

Seven wild Michigan wolves died from mange during 1993–97, making it responsible for 21 percent of all mortalities, and all disease-caused deaths, during that period (MI DNR 1997, p. 39). During bioyears (mid-April to mid-April) 1999–04, mange-induced hypothermia killed 9 of the 11 radio-collared Michigan wolves whose cause of death was attributed to disease, and it represented 17 percent of the total mortality during those years. Mange caused the death of 31 percent of radio-collared wolves during the 1999–2001 bioyears, but that rate decreased to 11 percent during the 2001–04 bioyears. However, the sample sizes are too small to reliably detect a trend (Beyer 2005 unpublished data). Before 2004, MI DNR treated all captured wolves with Ivermectin if they showed signs of mange. In addition, MI DNR vaccinated all captured wolves against CPV and canine distemper virus (CDV) and administered antibiotics to combat potential leptospirosis infections. These inoculations were discontinued in 2004 to provide more natural biotic conditions and to provide biologists with an unbiased estimate of disease-caused mortality rates in the population (Roell in litt. 2005b).

Wisconsin wolves similarly had been treated with Ivermectin and vaccinated for CPV and CDV when captured, but the practice was stopped in 1995 to allow the wolf population to experience more natural biotic conditions. Since that time, Ivermectin has been administered only to captured wolves with severe cases of mange. In the future, Ivermectin and vaccines will be used sparingly on Wisconsin wolves, but will be used to counter significant disease outbreaks (Wydeven in litt. 1998).

Among Minnesota wolves, mange may always have been present at low levels. However, based on observations of wolves trapped under the Federal wolf depredation control program, mange appears to have become more widespread in the State during the 1999–2005 period. Data from Wildlife Services trapping efforts showed only 8 wolves showing symptoms of mange were trapped during a 22-month period in 1994–96; in contrast, Wildlife Services trapped 10, 6, and 19 mangy wolves in 2003, 2004, and 2005, respectively (2005 data run through November 22 only). These data indicate that 12.6 percent of Minnesota wolves were showing symptoms of mange in 2005 (Paul 2005 in litt.). However, the thoroughness of these observations may not have been consistent over this 11-year period. In a separate study, mortality data from 12 years (1994–2005) of monitoring radio-collared wolves in 7–9 packs in north-central Minnesota show that 11 percent died from mange (DelGiudice in litt. 2005). However, the sample size (17 total mortalities, 2 from mange in 1998 and 2004) is far too small to deduce trends in mange mortality over time. Furthermore, these data are from mange mortalities, while the Wildlife Services' data are based on mange symptoms, not mortalities.

It is hypothesized that the current incidence of mange is more widespread than it would have otherwise been, because the WGL wolf range has experienced a series of mild winters beginning with the winter of 1997–98 (Van Deelen 2005, Fig. 2). Mange-induced mortality is chiefly a result of winter hypothermia, thus the less severe winters resulted in higher survival of mangy wolves, and increased spread of mange to additional wolves during the following spring and summer. The high wolf population, and especially higher wolf density on the landscape, may also be contributing to the increasing occurrence of mange in the WGL wolf population. There has been speculation that 500 or more Minnesota wolves died as a result of mange over the last 5 to 6 years, causing a slowing or cessation of previous wolf population increase in the State (Paul in litt. 2005).

Lyme disease, caused by the spirochete (*Borrelia burgdorferi*), is another relatively recently recognized disease, first documented in New England in 1975, although it may have occurred in Wisconsin as early as 1969. It is spread by ticks that pass the infection to their hosts when feeding. Host species include humans, horses, dogs, white-tailed deer, white-footed mice, eastern chipmunks, coyotes, and wolves. The prevalence of Lyme disease exposure in Wisconsin wolves averaged 70 percent of live-trapped animals in 1988–91, dropped to 37 percent during 1992–97 and was back up to 56 percent (32 of 57 tested) in 2002–04 (Wydeven and Wiedenhoeft 2004b, pp. 23–24 Table 7; 2005, pp. 23–24 Table 7). Clinical symptoms have not been reported in wolves, but infected dogs can experience debilitating conditions, and abortion and fetal mortality have been reported in infected humans and horses. It is possible that individual wolves may be debilitated by Lyme disease, perhaps contributing to their mortality; however, Lyme disease is not believed to be a significant factor affecting wolf populations (Kreeger 2003, p. 212).

The dog louse (*Trichodectes canis*) has been detected in wolves in Ontario, Saskatchewan, Alaska, Minnesota, and Wisconsin (Mech *et al.* 1985, pp. 404–405; Kreeger 2003, p. 208; Paul in litt. 2005). Dogs are probably the source of the initial infections, and subsequently wild canids transfer lice by direct contact with other wolves, particularly between females and pups. Severe infestations result in irritated and raw skin, substantial hair loss, particularly in the groin. However, in contrast to mange, lice infestations generally result in loss of guard hairs but not the

insulating under fur, thus, hypothermia is less likely to occur and much less likely to be fatal (Brand *et al.* 1995, p. 426). Even though observed in nearly 4 percent in a sample of 391 Minnesota wolves in 2003–05 (Paul in litt. 2005), dog lice infestations have not been confirmed as a cause of wolf mortality, and are not expected to have a significant impact even at a local scale.

Canine distemper virus (CDV) is an acute disease of carnivores that has been known in Europe since the sixteenth century and is now infecting dogs worldwide (Kreeger 2003, p. 209). CDV generally infects dog pups when they are only a few months old, so mortality in wild wolf populations might be difficult to detect (Brand *et al.* 1995, pp. 420–421). CDV mortality among wild wolves has been documented only in two littermate pups in Manitoba (Carbyn 1982, pp. 111–112), in two Alaskan yearling wolves (Peterson *et al.* 1984, p. 31), and in two Wisconsin wolves (an adult in 1985 and a pup in 2002 (Thomas in litt. 2006; Wydeven and Wiedenhoeft 2003b, p. 20). Carbyn (1982, pp. 113–116) concluded that CDV was a contributor to a 50 percent decline of the wolf population in Riding Mountain National Park (Manitoba, Canada) in the mid-1970s. Serological evidence indicates that exposure to CDV is high among some Midwest wolves—29 percent in northern Wisconsin wolves and 79 percent in central Wisconsin wolves in 2002–04 (Wydeven and Wiedenhoeft 2004b, pp. 23–24 Table 7; 2005, pp. 23–24 Table 7). However, the continued strong recruitment in Wisconsin and elsewhere in North American wolf populations indicates that distemper is not likely a significant cause of mortality (Brand *et al.* 1995, p. 421).

Other diseases and parasites, including rabies, canine heartworm, blastomycosis, bacterial myocarditis, granulomatous pneumonia, brucellosis, leptospirosis, bovine tuberculosis, hookworm, coccidiosis, and canine hepatitis have been documented in wild gray wolves, but their impacts on future wild wolf populations are not likely to be significant (Brand *et al.* 1995, pp. 419–429; Hassett in litt. 2003; Johnson 1995, p. 431, 436–438; Mech and Kurtz 1999, pp. 305–306; Thomas in litt. 1998, Thomas in litt. 2006, WI DNR 1999, p. 61; Kreeger 2003, pp. 202–214). Continuing wolf range expansion, however, likely will provide new avenues for exposure to several of these diseases, especially canine heartworm, raccoon rabies, and bovine tuberculosis (Thomas in litt. 2000, in litt. 2006), further emphasizing the need for disease monitoring programs. In addition, the possibility of new diseases developing and existing diseases, such as chronic wasting disease (CWD), West Nile Virus (WNV) and canine influenza (Crawford *et al.* 2005, 482–485), moving across species barriers or spreading from domestic dogs to wolves must all be taken into account, and monitoring programs will need to address such threats. Currently there is no evidence that CWD can directly affect canids (Thomas in litt. 2006). Wisconsin wolves have been tested for WNV at necropsy since the first spread of the virus across the State: to date all results have been negative. Although experimental infection of dogs produced no ill effects, WNV is reported to have killed two captive wolf pups, so young wolves may be at some risk (Thomas in litt. 2006).

In aggregate, diseases and parasites were the cause of 21 percent of the diagnosed mortalities of radio-collared wolves in Michigan from 1999 through 2004 (Beyer unpublished data 2005) and 27 percent of the diagnosed mortalities of radio-collared wolves in Wisconsin and adjacent Minnesota from October 1979 through June 2005 (Wydeven and Wiedenhoeft 2005, p. 21).

Many of the diseases and parasites are known to be spread by wolf-to-wolf contact. Therefore, the incidence of mange, CPV, CDV, and canine heartworm may increase as wolf densities increase in the more recently colonized areas (Thomas in litt. 2006). Because wolf densities generally are relatively stable following the first few years of colonization, wolf-to-wolf contacts will not likely lead to a continuing increase in disease prevalence in areas that have been occupied for several years or more and are largely saturated with wolf packs (Mech in litt. 1998).

Disease and parasite impacts may increase because several wolf diseases and parasites are carried and spread by domestic dogs. This transfer of pathogens from domestic dogs to wild wolves may increase as gray wolves continue to colonize non-wilderness areas (Mech in litt. 1998). Heartworm, CPV, and rabies are the main concerns (Thomas in litt. 1998) but dogs may become significant vectors for other diseases with potentially serious impacts on wolves in the future (Crawford *et al.* 2005, pp. 482–485). However, to date wolf populations in Wisconsin and Michigan have continued their expansion into areas with increased contacts with dogs and have shown no adverse pathogen impacts since the mid-1980s impacts from CPV.

Disease and parasite impacts are a recognized concern of the Minnesota, Michigan, and Wisconsin DNRs. The Michigan Gray Wolf Recovery and Management Plan states that necropsies will be conducted on all dead wolves, and that all live wolves that are handled will be examined, with blood, skin, and fecal samples taken to provide disease information. The Michigan Plan states that wolf health and disease monitoring will receive a high priority for a minimum of five years following Federal delisting (MI DNR 1997, pp. 21–22, 45).

Similarly, the Wisconsin Wolf Management Plan states that as long as the wolf is State-listed as a threatened or endangered species, the WI DNR will conduct necropsies of dead wolves and test a sample of live-captured wolves for diseases and parasites, with a goal of screening 10 percent of the State wolf population for diseases annually. However, the plan anticipates that since State delisting (which occurred on March 24, 2004), disease monitoring will be scaled back because the percentage of the wolf population that is live-trapped each year will decline. Disease monitoring of captured wolves currently is focusing on diseases known to be causing noteworthy mortality, such as mange, and other diseases for which data are judged to be sparse, such as Lyme disease and ehrlichiosis (Wydeven and Wiedenhoeft 2006, p. 8). The State will continue to test for disease and parasite loads through periodic necropsy and scat analyses. The 2006 update to the 1999 plan also recommends that all wolves live-trapped for other studies should have their health monitored and reported to the WI DNR wildlife health specialists (WI DNR 1999, p. 21; 2006c, p. 14). Furthermore, the 2006 update identifies a need for ''continued health monitoring to document significant disease events that may impact the wolf population and to identify new diseases in the population* * *.'' (WI DNR 2006a, p. 24).

The Minnesota Wolf Management Plan states that MN DNR ''will collaborate with other investigators and continue monitoring disease incidence, where necessary, by examination of wolf carcasses obtained through depredation control programs, and also through blood/tissue physiology work conducted by DNR and the U.S. Geological Survey. DNR will also keep records of documented and suspected incidence of sarcoptic mange (MN DNR 2001, p. 32).'' In addition, it will initiate ''(R)egular collection of pertinent tissues of live captured or dead wolves'' and periodically assess wolf health ''when

circumstances indicate that diseases or parasites may be adversely affecting portions of the wolf population (MN DNR 2001, p. 19).'' Unlike Michigan and Wisconsin, Minnesota has not established minimum goals for the proportion of its wolves that will be assessed for disease nor does it plan to treat any wolves, although it does not rule out these measures. Minnesota's less intensive approach to disease monitoring and management seems warranted in light of its much greater abundance of wolves than in the other two States.

In areas within the WGL DPS, but outside Minnesota, Wisconsin, and Michigan, we lack data on the incidence of diseases or parasites in transient wolves. However, the WGL DPS boundary is laid out in a manner such that the vast majority of, and perhaps all, wolves that will occur in the DPS in the foreseeable future will have originated from the Minnesota-Wisconsin-Michigan wolf metapopulation. Therefore, they will be carrying the ''normal'' complement of Midwest wolf parasites, diseases, and disease resistance with them. For this reason, any new pairs, packs, or populations that develop within the DPS are likely to experience the same low to moderate adverse impacts from pathogens that have been occurring in the core recovery areas. The most likely exceptions to this generalization would arise from exposure to sources of novel diseases or more virulent forms that are being spread by other canid species that might be encountered by wolves dispersing into currently unoccupied areas of the DPS. To increase the likelihood of detecting such novel, or more virulent diseases and thereby reduce the risk that they might pose to the core meta-population after delisting, we will encourage these States and Tribes to provide wolf carcasses or suitable tissue, as appropriate, to the USGS Madison Wildlife Health Center or the Service's National Wildlife Forensics Laboratory for necropsy. This practice should provide an early indication of new or increasing pathogen threats before they reach the core metapopulation or impact future transient wolves to those areas.

Disease summary—We believe that several diseases have had noticeable impacts on wolf population growth in the Great Lakes region in the past. These impacts have been both direct, resulting in mortality of individual wolves, and indirect, by reducing longevity and fecundity of individuals or entire packs or populations. Canine parvovirus stalled wolf population growth in Wisconsin in the early and mid-1980s and has been implicated in the decline in the mid-1980s of the isolated Isle Royale wolf population in Michigan, and in attenuating wolf population growth in Minnesota (Mech in litt. 2006). Sarcoptic mange has affected wolf recovery in Michigan's UP and in Wisconsin over the last ten years, and it is recognized as a continuing issue. Despite these and other diseases and parasites, the overall trend for wolf populations in the WGL DPS continues to be upward. Wolf management plans for Minnesota, Michigan, and Wisconsin include disease monitoring components that we expect will identify future disease and parasite problems in time to allow corrective action to avoid a significant decline in overall population viability. We conclude that diseases and parasites will not prevent the continuation of wolf recovery or the maintenance of viable wolf populations in the DPS. Delisting wolves in the WGL DPS will not significantly change the incidence or impacts of disease and parasites on these wolves. Furthermore, we conclude that diseases and parasites will not be threats sufficient to cause the WGL DPS gray wolves to be in danger of extinction in the foreseeable future in all or a significant portion of the range within the WGL DPS.

Predation

No wild animals habitually prey on gray wolves. Large prey such as deer, elk, or moose (Mech and Nelson 1989, pp. 207–208; Smith *et al.* 2001, p. 3), or other predators, such as mountain lions (*Felis concolor*) or grizzly bears (*Ursus arctos horribilis*) where they are extant (USFWS 2005, p. 3), occasionally kill wolves, but this has only been rarely documented. This very small component of wolf mortality will not increase with delisting.

Wolves frequently are killed by other wolves, most commonly when packs encounter and attack a dispersing wolf as an intruder or when two packs encounter each other along a territorial boundary (Mech 1994, p. 201). This form of mortality is likely to increase as more of the available wolf habitat becomes saturated with wolf pack territories, as is the case in northeastern Minnesota, but such a trend is not yet evident from Wisconsin or Michigan data. From October 1979 through June 1998, seven (12 percent) of the mortalities of radio-collared Wisconsin wolves resulted from wolves killing wolves, and 8 of 73 (11 percent) mortalities were from this cause during 2000–05 (Wydeven 1998, p. 16 Table 4; Wydeven and Wiedenhoeft 2001, p. 8 Table 5; 2002, pp. 8–9 Table 4; 2003a, pp. 11–12 Table 4; 2004a, pp. 11–12 Table 5, 2005, p. 21 Table 5). Gogan *et al.* (2004, p. 7) studied 31 radio-collared wolves in northern Minnesota from 1987–91 and found that 4 (13 percent) were killed by other wolves, representing 29 percent of the total mortality of radio-collared wolves. Intra-specific strife caused 50 percent of mortality within Voyageurs National Park and 20 percent of the mortality of wolves adjacent to the Park (Gogan *et al.* 2004, p. 22). The Del Giudice data (in litt. 2005) show a 17 percent mortality rate from other wolves in another study area in north-central Minnesota from 1994–2005. This behavior is normal in healthy wolf populations and is an expected outcome of dispersal conflicts and territorial defense, as well as occasional intra-pack strife. This form of mortality is something that the species has evolved with and it should not pose a threat to wolf populations in the WGL DPS following delisting.

Humans have functioned as highly effective predators of the gray wolf in North America for several hundred years. European settlers in the Midwest attempted to eliminate the wolf entirely in earlier times, and the U.S. Congress passed a wolf bounty that covered the Northwest Territories in 1817. Bounties on wolves subsequently became the norm for States across the species' range. In Michigan, an 1838 wolf bounty became the ninth law passed by the First Michigan Legislature; this bounty remained in place until 1960. A Wisconsin bounty was instituted in 1865 and was repealed about the time wolves were extirpated from the State in 1957. Minnesota maintained a wolf bounty until 1965.

Subsequent to the gray wolf's listing as a federally endangered species, the Act and State endangered species statutes prohibited the killing of wolves except under very limited circumstances, such as in defense of human life, for scientific or conservation purposes, or under special regulations intended to reduce wolf depredations of livestock or other domestic animals. The resultant reduction in human-caused wolf mortality is the main cause of the wolf's reestablishment in large parts of its historical range. It is clear, however, that illegal killing of wolves has continued in the form of intentional mortality and incidental deaths.

Illegal killing of wolves occurs for a number of reasons. Some of these killings are accidental (e.g., wolves are hit by vehicles, mistaken for coyotes and shot, or caught in traps set for other animals); some of these accidental killings are reported to State, Tribal, and Federal authorities. It is likely that most

illegal killings, however, are intentional and are never reported to government authorities. Because they generally occur in remote locations and the evidence is easily concealed, we lack reliable estimates of annual rates of intentional illegal killings.

In Wisconsin, all forms of human-caused mortality accounted for 54 percent of the diagnosed deaths of radio-collared wolves from October 1979 through June 2005. Thirty percent of the diagnosed mortalities, and 55 percent of the human-caused mortalities, were from shooting (firearms and bows). Another 14 percent of all the diagnosed mortalities (25 percent of the human-caused mortalities) resulted from vehicle collisions. (These percentages and those in the following paragraphs exclude two radio-collared Wisconsin wolves that were killed in depredation control actions by USDA–APHIS-Wildlife Services in 2003–04. The wolf depredation control programs in the Midwest are discussed separately under Depredation Control, below.) Preliminary 2006 data through September (8 diagnosed mortalities of radio-collared wolves) show these mortality percentages to be unchanged, with 38 percent of the mortalities resulting from mange, 38 percent shot, and 13 percent from vehicle collisions (Wydeven in litt. 2006c).

As the Wisconsin population has increased in numbers and range, vehicle collisions have increased as a percentage of radio-collared wolf mortalities. During the October 1979 through June 1992 period, only 1 of 27 (4 percent) known mortalities were from that cause; but from July 1992 through June 1998, 5 of the 26 (19 percent) known mortalities resulted from vehicle collisions (Wydeven 1998, p. 6). From 2002 through 2004, 7 of 45 (16 percent) known mortalities were from that cause (Wydeven and Wiedenhoeft 2003a, pp. 11–12 Table 4; 2004a, pp. 11–12 Table 5; 2005, pp. 19–20 Table 4).

A comparison over time for diagnosed mortalities of radio-collared Wisconsin wolves shows that 18 of 57 (32 percent) were illegally shot from October 1979 through 1998, while 12 of 42 (29 percent) were illegally shot from 2002 through 2004 (Wisconsin DNR 1999, p. 63; Wydeven and Wiedenhoeft 2003a, pp. 11–12 Table 4; 2004a, pp. 11–12 Table 4; 2005. pp. 19–20 Table 4). However, a more recent analysis incorporating 2005 and preliminary 2006 data for radio-collared wolves indicates an increase in illegal killing of wolves since 2000 (about 32 percent) compared to the previous decade (about 19 percent). The same analysis shows vehicle mortality declined and disease/malnutrition mortality increased from the 1990s to the 2000s (Wiedenhoeft 2006 unpublished data).

In the UP of Michigan, human-caused mortalities accounted for 75 percent of the diagnosed mortalities, based upon 34 wolves recovered from 1960 to 1997, including mostly non-radio-collared wolves. Twenty-eight percent of all the diagnosed mortalities and 38 percent of the human-caused mortalities were from shooting. In the UP during that period, about one-third of all the known mortalities were from vehicle collisions (MI DNR 1997, pp. 5–6). During the 1998 Michigan deer hunting season, 3 radio-collared wolves were shot and killed, resulting in one arrest and conviction (Hammill in litt. 1999, Michigan DNR 1999). During the subsequent 3 years, 8 additional wolves were killed in Michigan by gunshot, and the cut-off radio-collar from a ninth animal was located, but the animal was never found. These incidents resulted in 6 guilty pleas, with 3 cases remaining open. Data collected from radio-collared wolves from the 1999 to 2004 bioyears (mid-April to mid-April) show that human-caused mortalities still account for the majority of the wolf mortalities (60 percent) in Michigan. Deaths from vehicular collisions were about 15 percent of total mortality (25 percent of the human-caused mortality) and showed no trend over this six-year period. Deaths from illegal killing constituted 38 percent of all mortalities (65 percent of the human-caused mortality) over the period. From 1999 through 2001 illegal killings were 31 percent of the mortalities, but this increased to 42 percent during the 2002 through 2004 bioyears (Beyer unpublished data 2005),

North-central Minnesota data from 16 diagnosed mortalities of radio-collared wolves over a 12-year period (1994–2005) show that human-causes resulted in 69 percent of the diagnosed mortalities. This includes 1 wolf accidentally snared, 2 vehicle collisions, and 8 (50 percent of all diagnosed mortalities) that were shot (Del Giudice in litt. 2005). However, this data set of only 16 mortalities over 12 years is too small for reliable comparison to Wisconsin and Michigan data.

A smaller mortality dataset is available from a 1987–1991 study of wolves in, and adjacent to, Minnesota's Voyageurs National Park, along the Canadian border. Of 10 diagnosed mortalities, illegal killing outside the Park was responsible for a minimum of 60 percent of the deaths (Gogan *et al.* 2004, p. 22).

Two Minnesota studies provide some limited insight into the extent of human-caused wolf mortality before and after the species' listing. On the basis of bounty data from a period that predated wolf protection under the Act by 20 years, Stenlund (1955, p. 33) found an annual human-caused mortality rate of 41 percent. Fuller (1989, pp. 23–24) provided 1980–86 data from a north-central Minnesota study area and found an annual human-caused mortality rate of 29 percent, a figure that includes 2 percent mortality from legal depredation control actions. Drawing conclusions from comparisons of these two studies, however, is difficult due to the confounding effects of habitat quality, exposure to humans, prey density, differing time periods, and vast differences in study design. Although these figures provide support for the contention that human-caused mortality decreased after the wolf's protection under the Act, it is not possible at this time to determine if human-caused mortality (apart from mortalities from depredation control) has significantly changed over the 30-year period that the gray wolf has been listed as threatened or endangered.

Wolves were largely eliminated from the Dakotas in the 1920s and 1930s and were rarely reported from the mid-1940s through the late 1970s. Ten wolves were killed in these two States from 1981 to 1992 (Licht and Fritts 1994, pp. 76–77). Six more were killed in North Dakota since 1992, with four of these mortalities occurring in 2002 and 2003; in 2001, one wolf was killed in Harding County in extreme northwestern South Dakota. The number of reported sightings of gray wolves in North Dakota is increasing. From 1993–98, six wolf depredation reports were investigated in North Dakota, and adequate signs were found to verify the presence of wolves in two of the cases. A den with pups was also documented in extreme north-central North Dakota near the Canadian border in 1994. From 1999–2003, 16 wolf sightings/depredation incidents in North Dakota were reported to USDA–APHIS-Wildlife Services, and 9 of these incidents were verified. Additionally, one North Dakota wolf sighting was confirmed in early 2004, and two wolf depredation incidents were verified north of Garrison in late 2005. USDA–APHIS-Wildlife Services also confirmed a wolf sighting along the Minnesota border near Gary, South Dakota, in 1996, and a trapper with the South Dakota Game, Fish, and Parks Department sighted a lone wolf in the western Black Hills in 2002. Several other unconfirmed sightings have been

reported from these States, including two reports in South Dakota in 2003. Wolves killed in North and South Dakota are most often shot by hunters after being mistaken for coyotes, or were killed by vehicles. The 2001 mortality in South Dakota and one of the 2003 mortalities in North Dakota were caused by M–44 devices that had been legally set in response to complaints about coyotes.

In and around the core recovery areas in the Midwest, a continuing increase in wolf mortalities from vehicle collisions, both in actual numbers and as a percent of total diagnosed mortalities, is expected as wolves continue their colonization of areas with more human developments and a denser network of roads and vehicle traffic. In addition, the growing wolf populations in Wisconsin and Michigan are producing greater numbers of dispersing individuals each year, and this also will contribute to increasing numbers of wolf-vehicle collisions. This increase would be unaffected by a removal of WGL DPS wolves from the protections of the Act.

In those areas of the WGL DPS that are beyond the areas currently occupied by wolf packs in Minnesota, Wisconsin, and the UP, we expect that human-caused wolf mortality in the form of vehicle collisions, shooting, and trapping have been removing all, or nearly all, the wolves that disperse into these areas. We expect this to continue after Federal delisting. Road densities are high in these areas, with numerous interstate highways and other freeways and high-speed thoroughfares that are extremely hazardous to wolves attempting to move across them. Shooting and trapping of wolves also is likely to continue as a threat to wolves in these areas for several reasons. Especially outside of Minnesota, Wisconsin, and the UP, hunters will not expect to encounter wolves, and may easily mistake them for coyotes from a distance, resulting in unintentional shootings.

It is important to note that, despite the difficulty in measuring the extent of illegal killing of wolves, all sources of wolf mortality, including legal (e.g., depredation control) and illegal human-caused mortality, have not been of sufficient magnitude to stop the continuing growth of the wolf population in Wisconsin and Michigan, nor to cause a wolf population decline in Minnesota. This indicates that total gray wolf mortality does not threaten the continued viability of the wolf population in these three States, or in the WGL DPS.

Predation summary—The high reproductive potential of wolves allows wolf populations to withstand relatively high mortality rates, including human-caused mortality. The principle of compensatory mortality is believed to occur in wolf populations. This means that human-caused mortality is not simply added to ''natural'' mortality, but rather replaces a portion of it. For example, some of the wolves that are killed during depredation control actions would have otherwise died during that year from disease, intraspecific strife, or starvation. Thus, the addition of intentional killing of wolves to a wolf population will reduce the mortality rates from other causes on the population. Based on 19 studies by other wolf researchers, Fuller *et al.* (2003, pp. 182–186) concludes that human-caused mortality can replace about 70 percent of other forms of mortality.

Fuller *et al.* (2003, p. 182, Table 6.8) has summarized the work of various researchers in estimating mortality rates, especially human harvest, that would result in wolf population stability or decline. They provide a number of human-caused and total mortality rate estimates and the observed population effects in wolf populations in the United States and Canada. While variability is apparent, in general, wolf populations increased if their total average annual mortality was 30 percent or less, and populations decreased if their total average annual mortality was 40 percent or more. Four of the cited studies showed wolf population stability or increases with human-caused mortality rates of 24 to 30 percent. The clear conclusion is that a wolf population with high pup productivity—the normal situation in a wolf population—can withstand levels of overall and of human-caused mortality without suffering a long-term decline in numbers.

The wolf populations in Minnesota, Wisconsin, and Michigan will stop growing when they have saturated the suitable habitat and are curtailed in less suitable areas by natural mortality (disease, starvation, and intraspecific aggression), depredation management, incidental mortality (e.g., road kill), illegal killing, and other means. At that time, we should expect to see population declines in some years followed by short-term increases in other years, resulting from fluctuations in birth and mortality rates. Adequate wolf monitoring programs, however, as described in the Michigan, Wisconsin, and Minnesota wolf management plans are likely to identify high mortality rates and/or low birth rates that warrant corrective action by the management agencies. The goals of all three State wolf management plans are to maintain wolf populations well above the numbers recommended in the Federal Eastern Recovery Plan to ensure long-term viable wolf populations. The State management plans recommend a minimum wolf population of 1,600 in Minnesota, 350 in Wisconsin, and 200 in Michigan.

Despite human-caused mortalities of wolves in Minnesota, Wisconsin, and Michigan, these wolf populations have continued to increase in both numbers and range. If wolves in the WGL DPS are delisted, as long as other mortality factors do not increase significantly and monitoring is adequate to document, and if necessary counteract, the effects of excessive human-caused mortality should that occur, the Minnesota-Wisconsin-Michigan wolf population will not decline to nonviable levels in the foreseeable future as a result of human-caused killing or other forms of predation either within the core wolf populations or in all other parts of the DPS. Therefore, we conclude that predation, including all forms of human-caused mortally, will not be a sufficient future threat to cause the WGL DPS gray wolves to be in danger of extinction in the foreseeable future in all or a significant portion of the range within the WGL DPS.

D. The Inadequacy of Existing Regulatory Mechanisms

For the reasons described in the following section, the Service has determined that over a significant portion of the WGL DPS range, there are adequate regulatory mechanisms to ensure that this population of gray wolves is neither threatened nor endangered.

Regulatory Mechanisms in Minnesota, Wisconsin, and Michigan

State Wolf Management Planning

During the 2000 legislative session, the Minnesota Legislature passed wolf management provisions addressing wolf protection, taking of wolves, and directing MN DNR to prepare a wolf management plan. The MN DNR revised a 1999 draft wolf management plan to reflect the legislative action of 2000, and completed the Minnesota Wolf Management Plan (MN Plan) in early 2001 (MN DNR 2001, pp. 8–9).

The Wisconsin Natural Resources Board approved the Wisconsin Wolf Management Plan in October 1999 (WI Plan). In 2004 and 2005 the Wisconsin Wolf Science Advisory Committee and the Wisconsin Wolf Stakeholders group

reviewed the 1999 Plan, and the Science Advisory Committee subsequently developed updates and recommended modifications to the 1999 Plan. The WI DNR presented the Plan updates and modifications to the Wisconsin Natural Resources Board on June 28, 2006, and the NRB approved them at that time, with the understanding that some numbers would be updated and an additional reference document would be added (Holtz in litt. 2006). The updates were completed and received final NRB approval on November 28, 2006 (WI DNR 2006a, p. 1).

In late 1997, the Michigan Wolf Recovery and Management Plan (MI Plan) was completed and received the necessary State approvals. However, it is primarily focused on wolf recovery, rather than long-term management of a large wolf population and the conflicts that result as a consequence of successful wolf restoration. In 2006 the MI DNR convened a Michigan Wolf Management Roundtable committee (Roundtable) to provide guiding principles to the DNR on changes and revisions to the 1997 Plan and to guide management of Michigan wolves and wolf-related issues following Federal delisting of the species. The MI DNR will rely heavily on those guiding principles as it drafts a new wolf management plan. The Roundtable is composed of representatives from 20 Michigan stakeholder interests in wolf recovery and management, and its membership is roughly equal in numbers from the UP and the LP. During 2006, the Roundtable provided its ''Recommended Guiding Principles for Wolf Management in Michigan'' to the DNR in November (Michigan Wolf Management Roundtable 2006, p. 2). The first public draft of the revised MI Plan is expected to be available for public review and comment in March 2007, and the plan should be completed in late 2007 (Hogrefe in litt. 2006). See The Michigan Wolf Management Plan section below for a detailed description of the efforts of the Roundtable.

The Minnesota Wolf Management Plan

The Minnesota Plan is based, in part, on the recommendations of a State wolf management roundtable (MN DNR 2001, Appendix V) and on a State wolf management law enacted in 2000 (MN DNR 2001, Appendix I). This law and the Minnesota Game and Fish Laws constitute the basis of the State's authority to manage wolves. The Plan's stated goal is ''to ensure the long-term survival of wolves in Minnesota while addressing wolf-human conflicts that inevitably result when wolves and people live in the same vicinity'' (MN DNR 2001, p. 2). It establishes a minimum goal of 1,600 wolves in the State. Key components of the plan are population monitoring and management, management of wolf depredation of domestic animals, management of wolf prey, enforcement of laws regulating take of wolves, public education, and increased staffing to accomplish these actions. Following delisting, Minnesota DNR's management of wolves would differ from their current management while listed as threatened under the Act. Most of these differences deal with the control of wolves that attack or threaten domestic animals.

The Minnesota Plan divides the State into two wolf management zones—Zones A and B (see Figure 2 below). Zone A corresponds to Federal Wolf Management Zones 1 through 4 (approximately 30,000 sq mi (48,000 sq km) in northeastern Minnesota) in the Service's Eastern Recovery Plan, whereas Zone B constitutes zone 5 in the Eastern Recovery Plan (MN DNR 2001, pp. 19–20 and Appendix III; USFWS 1992, p. 72). Within Zone A, wolves would receive strong protection by the State, unless they were involved in attacks on domestic animals. The rules governing the take of wolves to protect domestic animals in Zone B would be less protective than in Zone A.

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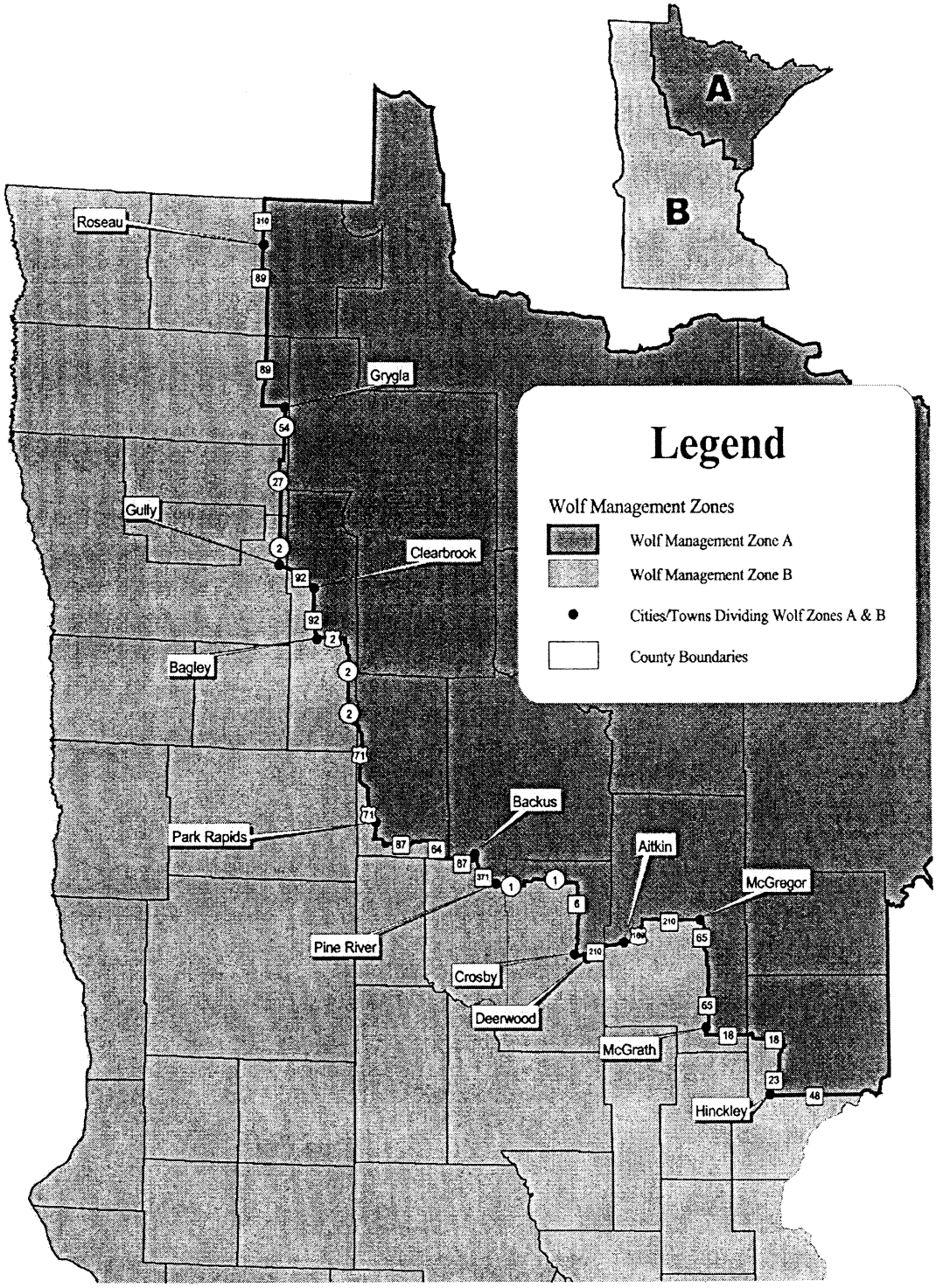
Figure 2. Minnesota wolf management zones.



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The MN DNR plans to allow wolf numbers and distribution to naturally expand, with no maximum population goal, and if any winter population estimate is below 1,600 wolves, it would take actions to ''assure recovery'' to 1,600 wolves (MN DNR 2001, p. 19). The MN DNR will continue to monitor wolves in Minnesota to determine whether such intervention is necessary. The MN DNR will conduct a statewide population survey in the first and fifth years after delisting and at subsequent five-year intervals. In addition to these statewide population surveys, MN DNR annually reviews data on depredation incident frequency and locations provided by Wildlife Services and winter track survey indices (see Erb 2005) to help ascertain annual trends in wolf population or range (MN DNR 2001, p. 18–19).

Minnesota (MN DNR 2001, pp. 21–24, 27–28) plans to reduce or control illegal mortality of wolves through education, increased enforcement of the State's wolf laws and regulations, by discouraging new road access in some areas, and by maintaining a depredation control program that includes compensation for livestock losses. The MN DNR plans to use a variety of methods to encourage and support education of the public about the effects of wolves on livestock, wild ungulate populations, and human activities and the history and ecology of wolves in the State (MN DNR 2001, pp. 29–30). These are all measures that have been in effect for years in Minnesota, although ''increased enforcement'' of State laws against take of wolves would replace enforcement of the Act's take prohibitions. Financial compensation for livestock losses has been increased in recent years to the full market value of the animal, replacing previous caps of $400 and $750 per animal (MN DNR 2001, p. 24). We do not expect the State's efforts will result in the reduction of illegal take of wolves from existing levels, but we believe these measures will be crucial in ensuring that illegal mortality does not significantly increase following Federal delisting.

The likelihood of illegal take increases in relation to road density and human population density, but changing attitudes towards wolves may allow them to survive in areas where road and human densities were previously thought to be too high (Fuller *et al.,* 2003, p. 181). The MN DNR does not plan to reduce current levels of road access, but would encourage managers of land areas large enough to sustain one or more wolf packs to ''be cautious about adding new road access that could exceed a density of one mile of road per square mile of land, without considering the potential effect on wolves'' (MN DNR 2001, pp. 27–28).

Under Minnesota law, the illegal killing of a wolf is a gross misdemeanor and is punishable by a maximum fine of $3,000 and imprisonment for up to one year. The restitution value of an illegally killed wolf is $2,000 (MN DNR 2001, p. 29). The MN DNR acknowledges that increased enforcement of the State's wolf laws and regulations would be dependent on increases in staff and resources, additional cross-deputization of tribal law enforcement officers, and continued cooperation with Federal law enforcement officers. They specifically propose after delisting to add three Conservation Officers ''strategically located within current gray wolf range in Minnesota'' whose priority duty would be to implement the gray wolf management plan (MN DNR 2001, pp. 29, 32).

Minnesota DNR will consider wolf population management measures, including public hunting and trapping seasons and other methods, in the future. However, State law and the Minnesota Plan state that such consideration will occur no sooner than five years after Federal delisting, and there would be opportunity for full public comment on such possible changes at that time (Minnesota Statutes 97B.645 Subdiv. 9, see MN DNR 2001, Appendix 1, p. 6; MN DNR 2001, p. 20) The Minnesota Plan requires that these population management measures have to be implemented in such a way to maintain a statewide late-winter wolf population of at least 1,600 animals (MN DNR 2001, pp. 19–20), well above the Federal Recovery Plan's 1250–1400 for the State (USFWS 1992, p. 28).

Depredation Control in Minnesota

While federally-protected as a threatened species in Minnesota (since their 1978 reclassification), wolves that have attacked domestic animals have been killed by designated government employees under the authority of a special regulation (50 CFR 17.40(d)) under section 4(d) of the Act. However, no control of depredating wolves was allowed in Federal Wolf Management Zone 1, comprising about 4,500 sq mi (7,200 sq km) in extreme northeastern Minnesota (USFWS 1992, p. 72). In Federal Wolf Management Zones 2 through 5, employees or agents of the Service (including USDA-APHIS-Wildlife Services) have taken wolves in response to depredations of domestic animals within one-half mile of the depredation site. Young-of-the-year captured on or before August 1 must be released. The regulations that allow for this take (50 CFR 17.40(d)(2)(i)(B)(4)) do not specify a maximum duration for depredation control, but Wildlife Services personnel have followed internal guidelines under which they trap for no more than 10–15 days, except at sites with repeated or chronic depredation, where they may trap for up to 30 days (Paul pers. comm. 2004).

During the period from 1980–2005, the Federal Minnesota wolf depredation control program euthanized from 20 (in 1982) to 216 (in 1997) gray wolves annually. Annual averages (and percentage of statewide population) were 30 (2.2 percent) wolves killed from 1980 to 1984, 49 (3.0 percent) from 1985 to 1989, 115 (6.0 percent) from 1990 to 1994, and 152 (6.7 percent) from 1995 to 1999. During 2000–05 an average of 128 wolves (4.2 percent of the wolf population, based on the 2003–2004 statewide estimate) were killed under the program annually. Since 1980, the lowest annual percentage of Minnesota wolves killed under this program was 1.5 percent in 1982; the highest percentage was 9.4 in 1997 (Paul 2004, pp. 2–7; 2006, p. 1).

This level of wolf removal for depredation control has not interfered with wolf recovery in Minnesota, although it may have slowed the increase in wolf numbers in the State, especially since the late-1980s, and may be contributing to the possibly stabilized Minnesota wolf population suggested by the 2003–04 estimate (see additional information in Minnesota Recovery). Minnesota wolf numbers grew at an average annual rate of nearly 4 percent between 1989 and 1998 while the depredation control program was taking its highest percentages of wolves (Paul 2004, pp. 2–7).

Under a Minnesota statute, the Minnesota Department of Agriculture (MDA) compensates livestock owners for full market value of livestock that wolves have killed or severely injured. A university extension agent or conservation officer must confirm that wolves were responsible for the depredation. The agent or officer also evaluates the livestock operation for conformance to a set of Best Management Practices (BMPs) designed to minimize wolf depredation and provides operators with an itemized list of any deficiencies relative to the BMPs (MN DNR 2001, p. 24). The Minnesota statute also requires MDA to periodically update its BMPs to incorporate new practices that it finds would reduce wolf depredation (Minnesota Statutes 2005, Section 3.737, subdivision 5).

Post-Delisting Depredation Control in Minnesota

Following Federal delisting, depredation control will be authorized under Minnesota State law and conducted in conformance with the Minnesota Wolf Management Plan (MN DNR 2001). The Minnesota Plan divides the State into Wolf Management Zones A and B. Zone A is composed of Federal Wolf Management Zones 1–4, covering 30,728 sq mi (49,452 sq km), approximately the northeastern third of the State. Zone B is identical to the current Federal Wolf Management Zone 5, and contains the 54,603 sq mi (87,875 sq km) that make up the rest of the State (MN DNR 2001, pp. 19–20 and Appendix III; USFWS 1992, p. 72). The statewide survey conducted during the winter of 2003–04 estimated that there were approximately 2,570 wolves in Zone A and 450 in Zone B (Erb in litt. 2005). As discussed in Recovery Criteria, the Federal planning goal is 1251–1400 wolves for Zones 1–4 and no wolves in Zone 5 (USFWS 1992, p. 28).

In Zone A wolf depredation control is limited to situations of (1) immediate threat and (2) following verified loss of domestic animals. In this zone, if DNR verifies that a wolf destroyed any livestock, domestic animal, or pet, and if the owner requests wolf control be implemented, trained and certified predator controllers may take wolves within a one-mile radius of the depredation site (depredation control area) for up to 60 days. In contrast, in Zone B, predator controllers may take wolves for up to 214 days after MN DNR opens a depredation control area, depending on the time of year. Under State law, the DNR may open a control area in Zone B anytime within five years of a verified depredation loss upon request of the landowner, thereby providing more of a preventative approach than is allowed in Zone A, in order to head off repeat depredation incidents (MN DNR 2001, p. 22).

State law and the Minnesota Plan will also allow for private wolf depredation control throughout the State. Persons may shoot or destroy a gray wolf that poses ''an immediate threat'' to their livestock, guard animals, or domestic animals on lands that they own, lease, or occupy. Immediate threat is defined as ''in the act of stalking, attacking, or killing.'' This does not include trapping because traps cannot be placed in a manner such that they trap only wolves in the act of stalking, attacking, or killing. Owners of domestic pets may also kill wolves posing an immediate threat to pets under their supervision on lands that they do not own or lease, although such actions are subject to local ordinances, trespass law, and other applicable restrictions. The MN DNR will investigate any private taking of wolves in Zone A (MN DNR 2001, p. 23).

To protect their domestic animals in Zone B, individuals do not have to wait for an immediate threat or a depredation incident in order to take wolves. At anytime in Zone B, persons who own, lease, or manage lands may shoot wolves on those lands to protect livestock, domestic animals, or pets. They may also employ a predator controller to trap a gray wolf on their land or within one mile of their land (with permission of the landowner) to protect their livestock, domestic animals, or pets (MN DNR 2001, p. 23–24).

The Minnesota Plan will also allow persons to harass wolves anywhere in the State within 500 yards of ''people, buildings, dogs, livestock, or other domestic pets or animals''. Harassment may not include physical injury to a wolf.

Depredation control will be allowed throughout Zone A, which includes an area (Federal Wolf Management Zone 1) where such control has not been permitted under the Act's protection. Depredation in Zone 1, however, has been limited to 3 to 6 reported incidents per year, mostly of wolves killing dogs (Paul pers. comm. 2004), although some dog kills in this zone probably go unreported. There are few livestock in Zone 1; therefore, the number of verified future depredation incidents in that Zone is expected to be low, resulting in a correspondingly low number of depredating wolves being killed there after delisting.

The final change in Zone A is the ability for owners/lessees to respond to situations of immediate threat by shooting wolves in the act of stalking, attacking, or killing livestock or other domestic animals. We believe this is not likely to result in the killing of many additional wolves, as opportunities to shoot wolves ''in the act'' will likely be few and difficult to successfully accomplish, a belief shared by the most experienced wolf depredation agent in the lower 48 States (Paul in litt. 2006, p. 5). It is also possible that illegal killing of wolves in Minnesota will decrease, because the expanded options for legal control of problem wolves may lead to an increase in public tolerance for wolves (Paul in litt. 2006, p. 5).

Within Zone B, State law and the Minnesota Plan provide broad authority to landowners and land managers to shoot wolves at any time to protect their livestock, pets, or other domestic animals on land owned, leased, or managed by the individual. Such takings can occur in the absence of wolf attacks on the domestic animals. Thus, the estimated 450 wolves in Zone B could be subject to substantial reduction in numbers, and at the extreme, wolves could be eliminated from Zone B. However, there is no way to reasonably evaluate in advance the extent to which residents of Zone B will use this new authority, nor how vulnerable Zone B wolves will be. Thus, any estimate of future wolf numbers in Zone B would be highly speculative at this time. The limitation of this broad take authority to Zone B is fully consistent with the Federal Recovery Plan's advice that wolves should be restored to the rest of Minnesota but not to Zone B (Federal Zone 5) because that area ''is not suitable for wolves'' (USFWS 1992, p. 20). The Federal Recovery Plan envisioned that the Minnesota numerical recovery goal would be achieved solely in Zone A (Federal Zones 1–4) (USFWS 1992, p. 28), and that has occurred. Wolves outside of Zone A are not necessary to the establishment and long-term viability of a self-sustaining wolf population in the State, and therefore there is no need to establish or maintain a wolf population in Zone B. Therefore, there is no need to maintain significant protection for wolves in Zone B in order to maintain a Minnesota wolf population that continues to satisfy the Federal recovery goals after Federal delisting.

This expansion of depredation control activities will not threaten the continued conservation of wolves in the State or the long-term viability of the wolf population in Zone A, the significant part of wolf range in Minnesota. Significant changes in wolf depredation control under State management will primarily be restricted to Zone B, which is outside of the area necessary for wolf recovery (USFWS 1992, pp. 20, 28). Furthermore, wolves may still persist in Zone B despite the likely increased take there. The Eastern Timber Wolf Recovery Team concluded that the changes in wolf management in the State's Zone A would be ''minor'' and would not likely result in ''significant change in overall wolf numbers in Zone A.'' They found that, despite an expansion of the individual depredation control areas and an extension of the control period to 60 days, depredation control will remain ''very localized'' in Zone A. The requirement that such depredation control activities be conducted only in response to verified wolf depredation in

Zone A played a key role in the team's evaluation (Peterson in litt. 2001).

The proposed changes in the control of depredating wolves in Minnesota under State management emphasize the need for post-delisting monitoring. Minnesota will continue to monitor wolf populations throughout the State and will also monitor all depredation control activities in Zone A (MN DNR 2001, p. 18). These and other activities contained in their plan will be essential in meeting their population goal of a minimum statewide winter population of 1,600 wolves, which exceeds the 1992 Federal Recovery Plan's criteria of 1,251 to 1,400 wolves (USFWS 1992, p. 28).

The Wisconsin Wolf Management Plan

Both the Wisconsin and Michigan Wolf Management Plans are designed to manage and ensure the existence of wolf populations in the States as if they are isolated populations and are not dependent upon immigration of wolves from an adjacent State or Canada. We support this approach and believe it provides strong assurances that the gray wolf in both States will remain a viable component of the WGL DPS for the foreseeable future.

The WI Plan allows for differing levels of protection and management within four separate management zones (see figure 3). The Northern Forest Zone (Zone 1) and the Central Forest Zone (Zone 2) now contain most of the wolf population, with less than 5 percent of the Wisconsin wolves in Zones 3 and 4 (Wydeven *et al.* 2006, p. 27–29). Zones 1 and 2 contain all the larger unfragmented areas of suitable habitat (see Wolf Range Ownership and Protection, above), so most of the State's wolf packs will continue to inhabit those parts of Wisconsin for the foreseeable future. The varying levels of protection provided across these zones are fully consistent with our determination of the SPR in Wisconsin. The inclusion of all primary and secondary habitat in Zones 1 and 2, and the lack of suitable habitat in Zones 3 and 4 (Wydeven *et al.* 1999, pp. 46–49), indicate that Zones 1 and 2 constitute the SPR in Wisconsin and preclude the need for substantial wolf protection outside these zones.

At the time the Wisconsin Wolf Management Plan was completed, it recommended immediate reclassification from State-endangered to State-threatened status, because Wisconsin's wolf population had already exceeded its reclassification criterion of 80 wolves for 3 years. That State reclassification occurred in 1999, after the population exceeded that level for 5 years. The Wisconsin Plan further recommends the State manage for a gray wolf population of 350 wolves outside of Native American reservations, and specifies that the species should be delisted by the State once the population reaches 250 animals outside of reservations. The species was proposed for State delisting in late 2003, and the State delisting process was completed in 2004. Upon State delisting, the species was classified as a ''protected nongame species,'' a designation that continues State prohibitions on sport hunting and trapping of the species (Wydeven and Jurewicz 2005, p. 1; WI DNR 2006b, p. 71). The Wisconsin Plan includes criteria that would trigger State relisting to threatened (a decline to fewer than 250 wolves for 3 years) or endangered status (a decline to fewer than 80 wolves for 1 year). The Wisconsin Plan will be reviewed annually by the Wisconsin Wolf Advisory Committee and will be reviewed by the public every 5 years.

The WI Plan was updated during 2004–06 to reflect current wolf numbers, additional knowledge, and issues that have arisen since its 1999 completion. This update is in the form of text changes, revisions to two appendices, and the addition of a new appendix to the 1999 plan, rather than as a major revision to the plan. Several components of the plan that are key to our delisting evaluation are unchanged. The State wolf management goal of 350 animals and the boundaries of the four wolf management zones remain the same as in the 1999 Plan. The updated 2006 Plan continues access management on public lands and the protection of active den sites. However, protection of pack rendezvous sites is no longer considered to be needed in areas where wolves have become well established, due to the transient nature of these sites and the larger wolf population. The updated Plan states that rendezvous sites may need protection in areas where wolf colonization is still underway or where pup survival is extremely poor, such as in northeastern Wisconsin (WI DNR 2006a, p. 17). The guidelines for the wolf depredation control program did not undergo significant alteration during the update process. The only substantive change to depredation control practices is to expand the area of depredation control trapping in Zones 1 and 2 to 1 mi (1.6 km) outward from the depredation site, replacing the previous 0.5 mi (0.8 km) radius trapping zone (WI DNR 2006a, pp. 3–4).

An important component of the WI Plan is the annual monitoring of wolf populations by radio collars and winter track surveys in order to provide comparable annual data to assess population size and growth for at least 5 years after Federal delisting. This monitoring will include health monitoring of captured wolves and necropsies of dead wolves that are found. Wolf scat will be collected and analyzed to monitor for canine viruses and parasites. Health monitoring will be part of the capture protocol for all studies that involve the live capture of Wisconsin wolves (WI DNR 2006a, p. 14).

Cooperative habitat management will be promoted with public and private landowners to maintain existing road densities in Zones 1 and 2, protect wolf dispersal corridors, and manage forests for deer and beaver (WI DNR 1999, pp. 4, 22–23; 2006a, pp. 15–17). Furthermore, in Zone 1, a year-around prohibition on tree harvest within 330 feet of den sites, and seasonal restrictions to reduce disturbance within one-half mile of dens, will be DNR policy on public lands and will be encouraged on private lands (WI DNR 1999, p. 23; 2006a, p. 17).

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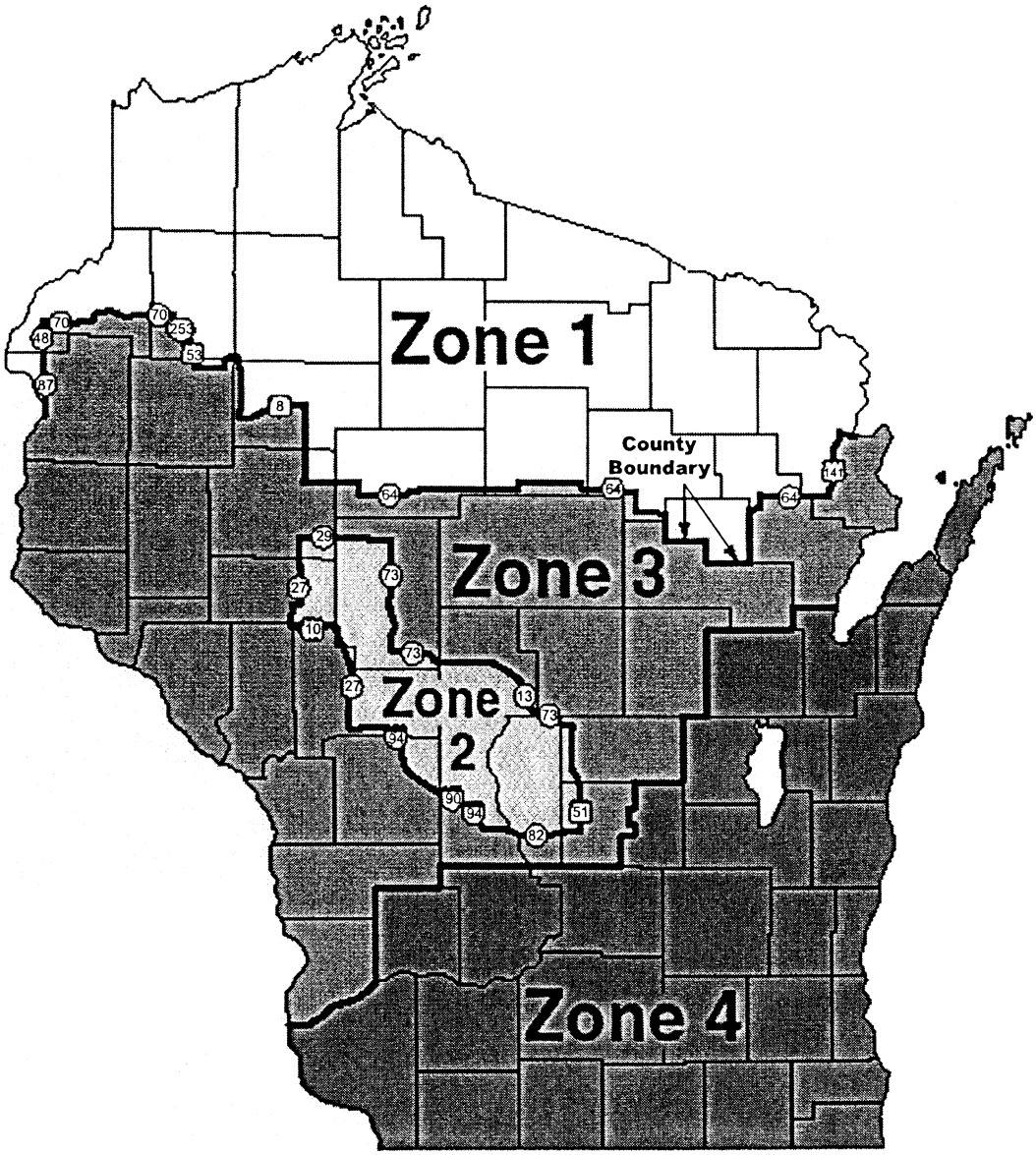
Figure 3. Wisconsin wolf management zones.



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The 1999 WI Plan contains, and the 2006 update retains, other recommendations that will provide protection to assist in maintenance of a viable wolf population in the State: (1) Continue the protection of the species as a ''protected wild animal'' with penalties similar to those for unlawfully killing large game species (fines of $1000–2000, loss of hunting privileges for 3–5 years, and a possible 6-month jail sentence), (2) maintain closure zones where coyotes cannot be shot during deer hunting season in Zone 1, (3) legally protect wolf dens under the Wisconsin Administrative Code, (4) require State permits to possess a wolf or wolf-dog hybrid, and (5) establish a restitution value to be levied in addition to fines and other penalties for wolves that are illegally killed (WI DNR 1999, pp. 21, 27–28, 30–31; 2006a, pp. 3–4).

The 2006 update of the WI Plan continues to emphasize the need for public education efforts that focus on living with a recovered wolf population, ways to manage wolves and wolf-human conflicts, and the ecosystem role of wolves. The Plan continues the State reimbursement for depredation losses (including dogs and missing calves), citizen stakeholder involvement in the wolf management program, and coordination with the Tribes in wolf management and investigation of illegal killings (WI DNR 1999, pp. 24, 28–29; 2006a, pp. 22–23).

Given the decline and ultimate termination in Federal funding for wolf monitoring in the future, Wisconsin and Michigan DNRs are seeking an effective, yet cost-efficient, method for detecting wolf population changes to replace the current labor-intensive and expensive monitoring protocols. Both DNRs have considered implementing a ''Minnesota-type'' wolf survey. Such methodology is less expensive for larger wolf populations than the intensive radio monitoring/track survey methods currently used by the two States, and if the wolf population continues to grow there will be increased need to develop and implement a less expensive method. However, each State conducted independent field testing of the Minnesota method several years ago and found that method to be unsuitable for both States' lower wolf population density and uneven pack distribution. In both States the application of that method resulted in an overestimate of wolf abundance, possibly due to the more patchy distribution of wolves and packs in these States and the difficulty in accurately delineating occupied wolf range in areas where wolf pack density is relatively low in comparison to Minnesota and where agricultural lands are interspersed with forested areas (Wiedenhoeft 2005, pp. 11–12; Beyer in litt. 2006b).

Both States remain interested in developing accurate but less costly alternate survey methods. WI DNR might test other methods following Federal delisting, but the State will not replace its traditional radio tracking/snow tracking surveys during the five year post-delisting monitoring period (Wydeven in litt. 2006b). The 2006 update to the Wisconsin Wolf Management Plan has not changed the WI DNR's commitment to annual wolf population monitoring in a manner that ensures accurate and comparable data (WI DNR 1999, pp. 19–20), and we are confident that adequate annual monitoring will continue for the foreseeable future.

Depredation Control in Wisconsin

The rapidly expanding Wisconsin wolf population has resulted in increased need for depredation control. From 1979 through 1989, there were only five cases (an average of 0.4 per year) of verified wolf depredations in Wisconsin. Between 1990 and 1997, there were 27 verified depredation incidents in the State (an average of 3.4 per year), and 82 incidents (an average of 16.4 per year) occurred from 1998–2002. Depredation incidents increased to 23 cases (including 50 domestic animals killed and 4 injured) in 2003, and to 35 cases (53 domestic animals killed, 3 injured, and 6 missing) in 2004 (Wydeven and Wiedenhoeft 2004a, pp. 2–3, 7–8 Table 3; Wydeven *et al.* 2005b, p. 7). In 2005, depredation grew to 45 cases, with 53 domestic animals killed and 11 injured (Wydeven *et al.* 2006b, p. 7). The number of farms experiencing wolf depredations on livestock averaged 2.8 annually (range 0 to 8) during the 1990s, but jumped to an average of 14.0 per year during 2000–2005 (WI DNR 2006a, p. 19). During those five years an annual upward trend was evident, increasing from 10 in 2002, to 14 in 2003, to 22 in 2004, and to 25 in 2005 (WI DNR 2006a, p. 34).

A significant portion of depredation incidents in Wisconsin involve attacks on dogs engaged in bear hunting activities or dogs being trained in the field for hunting. In almost all cases, these have been hunting dogs that were being used for, or being trained for, hunting bears and bobcats at the time they were attacked. It is believed that the dogs entered the territory of a wolf pack and may have been close to a den, rendezvous site, or feeding location, thus triggering an attack by wolves defending their territory or pups. The frequency of attacks on hunting dogs has increased as the State's wolf population has grown. In 2004, 13 dogs involved in bear hunting or training were killed by wolves and 2 dogs not involved in hunting/training were killed. These incidents were believed to involve 7 different wolf packs, or 6 percent of the 108 packs in Wisconsin in the winter of 2003–2004. Preliminary data from 2006 through the middle of October show a continuation of increased wolf attacks on bear hunting dogs, with 20 killed and 5 injured by 8 separate wolf packs, 7 percent of the winter 2005–2006 packs. (*http://www.dnr.state.wi.us/org/land/er/mammals/wolf/dogdepred.htm*, accessed Nov. 21, 2006). While Wisconsin DNR compensates dog owners for mortalities and injuries to their dogs, DNR takes no action against the depredating pack unless the attack was on a dog that was leashed, confined, or under the owner's control on the owner's land. Instead, the DNR issues press releases to warn bear hunters and bear dog trainers of the areas where wolf packs have been attacking bear dogs (WI DNR 2005, p. 4) and provides maps and advice to hunters on the DNR Web site (see *http://www.dnr.state.wi.us/org/land/er/mammals/wolf/dogdepred.htm*).

Post-delisting Depredation Control in Wisconsin

Following Federal delisting, wolf depredation control in Wisconsin will be carried out according to the 2006 Updated Wisconsin Wolf Management Plan (WI DNR 2006a, pp. 19–23), Wisconsin Guidelines for Conducting Depredation Control on Wolves (Wisconsin DNR 2005) which are being revised to conform to the 2006 Updated Plan, and any Tribal wolf management plans or guidelines that may be developed in the future for reservations in occupied wolf range. The 2006 updates have not significantly changed the 1999 State Plan, and the State wolf management goal of 350 wolves outside of Indian reservations (WI DNR 2006a, p. 3) is unchanged. Verification of wolf depredation incidents will continue to be conducted by USDA-APHIS-Wildlife Services, working under a cooperative agreement with WI DNR, or at the request of a Tribe, depending on the location of the suspected depredation incident. If determined to be a confirmed or probable depredation by a wolf or wolves, one or more of several options will be implemented to address the depredation problem. These options include technical assistance, loss compensation to landowners, translocation or euthanizing problem wolves, and private landowner control

of problem wolves in some circumstances (WI DNR 2006a, pp. 3–4, 20–22).

Technical assistance, consisting of advice or recommendations to prevent or reduce further wolf conflicts, will be provided. This may also include providing to the landowner various forms of non-injurious behavior modification materials, such as flashing lights, noise makers, temporary fencing, and fladry. Monetary compensation is also provided for all verified and probable losses of domestic animals and for a portion of documented missing calves (WI DNR 2006a, pp. 22–23).

The WI DNR compensates livestock and pet owners for confirmed losses to depredating wolves. The compensation is made at full market value of the animal (up to a limit of $2500 for hunting dogs and pets) and can include veterinarian fees for the treatment of injured animals (WI DNR 2006c 12.54). Compensation costs have been funded from the endangered resources tax check-off and sales of the endangered resources license plates. Current Wisconsin law requires the continuation of the compensation payment for wolf depredation regardless of Federal listing or delisting of the species (WI DNR 2006c 12.50). In recent years annual depredation compensation payments have ranged from $18,630 to nearly $110,000 (WI DNR 2006a, pp. 22–23, 29).

For depredation incidents in Wisconsin Zones 1 through 3, where all wolf packs currently reside, wolves may be trapped by Wildlife Services or WI DNR personnel and, if feasible, they are translocated and released at a point distant from the depredation site. If wolves are captured adjacent to an Indian reservation or a large block of public land the animals may be translocated locally to that area. As noted above, long-distance translocating of depredating wolves has become increasingly difficult in Wisconsin and is likely to be used infrequently in the future as long as the off-reservation wolf population is above 350 animals. In most wolf depredation cases where technical assistance and non-lethal methods of behavior modification are judged to be ineffective, wolves will be shot or trapped and euthanized by Wildlife Services or DNR personnel. Trapping and euthanizing will be conducted within a 1 mi (1.6 km) radius of the depredation in Zones 1 and 2, and within a 5 mi (8 km) radius in Zone 3. There is no distance limitation for depredation control trapping in Zone 4, and all wolves trapped in Zone 4 will be euthanized, rather than translocated (WI DNR 2006a, pp. 22–23)

Following Federal delisting, Wisconsin landowners who have had a verified wolf depredation will be able to obtain limited-duration permits from WI DNR to kill a limited number of depredating wolves on land they own or lease. In addition, landowners and lessees of land statewide will be allowed to kill a wolf without obtaining a permit ''in the act of killing, wounding, or biting a domestic animal,'' and the incident must be reported to a conservation warden within 24 hours (WI DNR 2006a, pp. 22–23).

The updated Wisconsin Plan also envisions the possibility of intensive control management actions in sub-zones of the larger wolf management zones, but such actions, and the triggering events for them, have yet to be determined (WI DNR 2006a, pp. 22–23). These actions would be considered on a case-by-case basis to address specific problems, and would likely be carried out only in areas that lack suitable habitat, have extensive agricultural lands with little forest interspersion, in urban or suburban settings, and only when the State wolf population is well above the management goal of 350 wolves in late winter surveys. The use of intensive population management in small areas will be adapted as experience is gained with implementing and evaluating localized control actions (Wydeven pers. comm. 2006).

We have evaluated future lethal depredation control based upon verified depredation incidents over the last decade and the impacts of the implementation of similar lethal control of depredating wolves under 50 CFR 17.40(d) for Minnesota, 17.40(o) for Wisconsin and Michigan, and section 10(a)(1)(A) of the Act for Wisconsin and Michigan. Under those authorities, WI DNR and Wildlife Services trapped and euthanized 17 wolves in 2003, 24 in 2004, 32 (including several possible hybrids) in 2005, and 18 in 2006 (WI DNR 2006a, p. 32). (Although these lethal control authorities applied to Wisconsin and Michigan DNRs for only a portion of 2003 (April through December) and 2005 (all of January for both States; April 1 and April 19, for Wisconsin and Michigan respectively, through September 13), they covered nearly all of the verified wolf depredations during those years, and thus provide a reasonable measure of annual lethal depredation control. Lethal control authority only occurred for about 4 months in 2006.) For 2003, 2004, and 2005 this represents 5.1 percent, 6.4 percent, 7.4 percent (including the several possible wolf-dog hybrids), respectively, of the late winter population of Wisconsin wolves during the previous winter. (Note that some of the wolves euthanized after August 1 were young-of-the-year who were not present during the late winter survey, so the cited percentages are overestimates.) This level of lethal depredation control was followed by a wolf population increase of 11 percent from 2003 to 2004, 17 percent from 2004 to 2005, and 7 percent from 2005 to 2006. (Wydeven and Jurewicz 2005, p. 5; Wydeven *et al.* 2006a, p. 10.) This provides strong evidence that this form and magnitude of depredation control will not adversely impact the viability of the Wisconsin wolf population. The locations of depredation incidents provide additional evidence that lethal control will not be an adverse impact on the State's wolf population. Most livestock depredations are caused by packs near the northern forest—farm land interface. Few depredations occur in core wolf range and in large blocks of public land. Thus, lethal depredation control actions will not impact most of the Wisconsin wolf population (WI DNR 2006a, p. 30).

One substantive change to lethal control that likely will result from Federal delisting is the ability of a small number of private landowners, whose farms have a history of recurring wolf depredation, to obtain DNR permits to kill depredating wolves (WI DNR 2006a, p. 23). We estimate that up to 3 wolves from each of 5 to 10 farms may be killed annually under these permits in the several years immediately after delisting. Because the late-winter 2005–06 Wisconsin wolf population was approaching 500 animals, the death of these 5 to 30 additional wolves—only 1 to 6 percent of the State wolves—would not affect the viability of the population. Another substantive change may be potential proactive trapping or ''intensive control'' of wolves in limited areas as described above. While it is not possible to estimate the number of wolves that might be killed via these actions, we are confident that they will not impact the long-term viability of the Wisconsin wolf population, because they will be carried out only if the State's late-winter wolf population exceeds 350 animals.

The State's current guidelines for conducting depredation control actions say that no control trapping will be conducted on wolves that kill ''dogs that are free-roaming, roaming at large, hunting, or training on public lands, and all other lands except land owned or leased by the dog owner'' (Wisconsin DNR 2005, p. 4). Because of these State-imposed limitations, we believe that lethal control of wolves depredating on hunting dogs will be rare, and therefore

will not be a significant additional source of mortality in Wisconsin.

Lethal control of wolves that attack captive deer is included in the WI DNR depredation control program, because farm-raised deer are considered to be livestock under Wisconsin law (WI DNR 2005, p. 4; 2006c, 12.52). However, Wisconsin regulations for deer farms fencing have been strengthened, and it is unlikely that more than an occasional wolf will need to be killed to end wolf depredations inside deer farms in the foreseeable future. Claims for wolf depredation compensation are rejected if the claimant is not in compliance with regulations regarding farm-raised deer fencing or livestock carcass disposal (Wisconsin Statutes 90.20 & 90.21, WI DNR 2006c 12.54)

Data from verified wolf depredations in recent years indicate that depredation on livestock is likely to increase as long as the Wisconsin wolf population increases in numbers and range. Most large areas of forest land and public lands are included in Wisconsin Wolf Management Zones 1 and 2, and they have already been colonized by wolves. Therefore, new areas likely to be colonized by wolves in the future will be in Zones 3 and 4, where they will be exposed to much higher densities of farms, livestock, and residences. During the period from July 2004 through June 2005, 29 percent (8 of 28) of farms experiencing wolf depredation were in Zone 3, yet only 4 percent of the State wolf population occurs in this zone (Wydeven and Wiedenhoeft 2005, p. 3). Further expansion of wolves into Zone 3 would likely lead to an increase in depredation incidents and an increase in lethal control actions against Zone 3 wolves. However, these Zone 3 mortalities will have no impact on wolf population viability in Wisconsin because of the much larger wolf populations in Zones 1 and 2.

For the foreseeable future, the wolf population in Zones 1 and 2 will continue to greatly exceed the Federal recovery goal of 200 late winter wolves for an isolated population and 100 wolves for a subpopulation connected to the larger Minnesota population, regardless of the extent of wolf mortality from all causes in Zones 3 and 4. Ongoing annual wolf population monitoring by WI DNR will provide timely and accurate data to evaluate the effects of wolf management under the Wisconsin Plan.

The possibility of a public harvest of wolves is acknowledged in the Wisconsin Wolf Management Plan and in plan update drafts (WI DNR 1999, Appendix D; 2006c, p. 23). However, the question of whether a public harvest will be initiated and the details of such a harvest are far from resolved. Public attitudes toward a wolf population in excess of 350 would have to be fully evaluated, as would the impacts from other mortalities, before a public harvest could be initiated. Establishing a public harvest would be preceded by extensive public input, including public hearing, and would require legislative authorization and approval by the Wisconsin Natural Resources Board. Because of the steps that must precede a public harvest of wolves and the uncertainty regarding the possibility of, and the details of, any such program, it is not possible to evaluate the potential impacts of the public harvest of wolves. Therefore, we consider public harvest of Wisconsin wolves to be highly speculative at this time. The Service will closely monitor any steps taken by States and/or Tribes within the WGL DPS to establish any public harvest of gray wolves during our post-delisting monitoring program. The fact that the Wisconsin Plan calls for State relisting of the wolf as a threatened species if the population falls to fewer than 250 for 3 years provides a strong assurance that any future public harvest is not likely to threaten the persistence of the population (WI DNR 1999, pp. 15–17). Based on wolf population data, the current Wisconsin Plan and the 2006 updates, we believe that any public harvest plan would continue to maintain the State wolf population well above the recovery goal of 200 wolves in late winter.

Michigan Wolf Management Plan

The 1997 Michigan Gray Wolf Recovery and Management Plan (MI Plan) (MI DNR 1997) describes the wolf recovery goals and management actions needed to achieve a viable wolf population in the UP of Michigan. It does not address the potential need for wolf recovery or management in the Lower Peninsula, nor wolf management within Isle Royale National Park (where the wolf population is fully protected by the National Park Service). Necessary wolf management actions detailed in the Michigan Plan include public education and outreach activities, annual wolf population and health monitoring, research, depredation control, and habitat management. As described above, MI DNR currently is in the process of revising its plan to enable more effective management of a recovered and expanding wolf population. The revision is expected to be completed in late 2007.

As with the WI Plan, the MI DNR has chosen to manage the State's wolves as though they are an isolated population that receives no genetic or demographic benefits from immigrating wolves. Therefore, although we do not know if the revised Michigan Plan will contain any long-term minimum numerical goal for wolves in the UP or NLP, as a result of written commitments from the MI DNR, as discussed below, we are confident that the State plan will have a goal of maintaining a wolf population that is large enough so as to be viable for the foreseeable future and will not have to be listed as threatened or endangered under either State or Federal law (Moritz in litt. 2006; Koch in litt. 2006a). The MI DNR has assured us that ''the new revised Plan will underscore commitments to wolf management already made in the 1997 plan.'' (Koch in litt. 2006b.) We strongly support this approach, as it provides assurance that a viable wolf population will remain in the UP regardless of the future fate of wolves in Wisconsin or Ontario.

Until the MI Plan revision is completed, the 1997 Michigan Plan will remain in effect, as supplemented by additional guidance developed since 1997 to deal with aspects of wolf management and recovery not adequately covered in the 1997 Plan, such as ''Guidelines for Management and Lethal Control of Wolves Following Confirmed Depredation Events'' (MI DNR 2005a).

The 1997 Michigan Plan identifies wolf population monitoring as a priority activity (MI DNR 1997, pp. 21–22). As discussed previously, the size of the wolf population is determined annually by extensive radio and snow tracking surveys. Recently the Michigan DNR also conducted a field evaluation of a less expensive ''Minnesota-type'' wolf survey. However, similar to Wisconsin DNR's experience, the evaluation concluded that the method overestimated wolf numbers, and is not suitable for use on the State's wolf population as it currently is distributed (Beyer in litt. 2006b).

The MI DNR remains interested in developing accurate but less costly alternate survey methods, and in the winter of 2006–2007 is planning to implement a sampling approach to increase the efficiency of the survey based on an analysis by Potvin *et al.* (2005, p. 1668). The UP will be stratified into three sampling areas, and within each stratum the DNR will intensively survey roughly 40 to 50 percent of the wolf habitat area annually. Computer simulations have shown that such a geographically stratified monitoring program will produce unbiased and precise estimates of the total wolf population which can be statistically

compared to estimates derived from the previous method to detect significant changes in the UP wolf population (Beyer in litt 2006b, see attachment by Drummer; Lederle in litt. 2006).

The 1997 Michigan Plan identifies 800 wolves as the estimated biological carrying capacity of suitable areas in the UP (MI DNR 1997, p. 17). ''Carrying capacity'' is the number of animals that an area is able to support over the long term; for wolves, it is primarily based on the availability of prey animals and competition from other wolf packs. Under the 1997 Michigan Plan, wolves in the State will be considered recovered when a sustainable population of at least 200 wolves is maintained for 5 consecutive years. The UP has had more than 200 wolves since the winter of 1999–2000. Therefore, Michigan reclassified wolves from endangered to threatened in June 2002, and the gray wolf became eligible for State delisting under the Michigan Plan's criteria in 2004. In Michigan, however, State delisting cannot occur until after Federal delisting; therefore we expect State delisting to be initiated in the near future. During the State delisting process, Michigan intends to amend its Wildlife Conservation Order to grant ''protected animal'' status to the gray wolf. That status would ''prohibit take, establish penalties and restitution for violations of the Order, and detail conditions under which lethal depredation control measures could be implemented'' (Humphries in litt. 2004). Population management, except for depredation control, is not addressed in the 1997 Michigan Plan beyond statements that the wolf population may need to be controlled by lethal means at some future time.

Similar to the Wisconsin Plan, the 1997 Michigan Plan recommends high levels of protection for wolf den and rendezvous sites, whether on public or private land. The Plan recommends that most land uses be prohibited at all times within 330 feet (100 meters) of active sites. Seasonal restrictions (March through July) should be enforced within 0.5 mi (0.8 km) of these sites, to prevent high-disturbance activities, such as logging, from disrupting pup-rearing activities. These restrictions should remain in effect even after State delisting occurs (MI DNR 1997, pp. 26–27), but they may be modified by the revision of the 1997 Plan, which is expected to be completed in late 2007.

The 1997 Michigan Plan calls for re-evaluation of the plan at 5-year intervals. The MI DNR initiated this re-evaluation process in 2001, with the appointment of a committee to evaluate wolf recovery and management. As a result of that review, MI DNR concluded that a revision of the 1997 Plan is needed, and a more formal review, including extensive stakeholder input, was recently initiated. Recognizing that wolf recovery has been achieved in Michigan, additional scientific knowledge has been gained, and new social issues have arisen since the 1997 Plan was drafted, the DNR intends the revised plan to be more of a wolf management document than a recovery plan. The DNR convened a Michigan Wolf Management Roundtable to assist in this endeavor. The Roundtable is a diverse group of 20 citizens drawn from organizations spanning the spectrum of those interested in, and impacted by, wolf recovery and management in Michigan, including Tribal entities and organizations focused on agriculture, hunting/trapping, the environment, animal protection, law enforcement and public safety, and tourism.

To help the Roundtable produce guiding principles that are based on the best biological and sociological data available, the MI DNR developed a ''Review of Social and Biological Science Relevant to Wolf Management in Michigan'' (Beyer *et al.* 2006). The MI DNR instructed the Roundtable to provide strategic guidance for the DNR's use in subsequent development of an operational wolf management plan. The Roundtable was asked to review the 1997 wolf management goal, to set priorities for management issues, and to recommend strategic goals or policies the DNR should use in addressing the management issues. The Roundtable was not asked to provide input regarding specific methods to achieve wolf management goals and objectives. The DNR's instructions specified the ''wolf management working goal'' currently is ''to establish and maintain a population of gray wolves in the Upper Peninsula at a level that (1) assures wolf population sustainability, (2) is consistent with available wolf habitat, and (3) is compatible with human land-use practices'' (Moritz in litt. 2006, attachment pp. 1–2).

The Roundtable has provided this guidance to MI DNR in the form of a series of ''guiding principles'' that were developed by member consensus over a period of 10 days of meetings over a 5-month period. The Roundtable prefaced their guidance by stating that wolf management should have a goal of maintaining ''acceptable levels of positive and negative [wolf-human] interactions while ensuring the long-term viability of a wolf population'' (Michigan Wolf Management Roundtable 2006, p. 5). Because the factors that influence the levels of wolf-human interactions vary across geographic scales and over time, the Roundtable felt that setting numerical goals for large geographical areas would be unwise. Instead, the Roundtable believes that local and case-by-case management would be better able to enhance opportunities for positive interactions and reduce negative interactions. Therefore, in place of recommending a numerical goal for the Michigan wolf population, the Roundtable provided a series of general guiding principles for the DNR to use in wolf population management (Michigan Wolf Management Roundtable 2006, pp. 6–7):

- Strategic management goals should be based on positive and negative wolf impacts, rather than on wolf numbers, and should consider genetic diversity, population sustainability, ecological and social benefits, impacts on wildlife and their habitats, human safety, and limiting wolf depredation on domestic animals.
- Wolf-human conflicts are best resolved at the individual wolf or pack level, with broader scale wolf population management considered only when excessive wolf numbers are determined to be the cause of significant conflict.
- Wolf management should be ''adaptive management'' and should include evaluation of management practices.
- Michigan wolves will need to be killed on a case-by-case basis to resolve conflicts, and hunters can be used for such management in the future.
- Natural expansion of wolves to the NLP should be accompanied by education efforts to enhance public tolerance of that expansion.

The Roundtable provided a series of guiding principles that specifically deal with wolf-related conflicts in order to minimize such conflicts and provide relief when they occur, with the goal of ensuring long-term viability of the wolf population (Michigan Wolf Management Roundtable 2006, pp. 7–9).

- Lethal control is an accepted option, but more emphasis is needed on the development and use of non-lethal methods. The Roundtable does not recommend the use of lethal measures as a preventative approach where conflicts do not yet exist.
- Attacks on dogs trespassing into a pack territory are predictable and normal wolf behavior, and the primary responsibility for reducing the attacks lies with the dog owner. Lethal control of the pack should not be used unless non-lethal methods are ineffective and the attacks become chronic.

• Compensation for livestock losses should be tied to the use of best management practices to decrease wolf-livestock conflicts. An incremental approach by MI DNR to resolve wolf-livestock conflicts should involve technical support, non-lethal methods, and lethal control, and should be implemented in a manner that reflects the severity and frequency of the attacks.

• Livestock owners should be allowed, without a permit, to kill wolves in the act of attacking livestock on private property. Lethal take permits should be available to landowners if non-lethal methods are ineffective following verified wolf depredations. Abuses of these permits should be referred for prosecution.

While recognizing that public hunting or trapping of wolves is a valid management tool to reduce wolf-related conflicts under specific conditions, the Roundtable was unable to come to a consensus position on conducting a wolf hunting or trapping program in the absence of a need to reduce the wolf population to address identified conflicts. Developing guiding principles regarding such a public harvest of wolves was not possible due to the significantly different and deeply held fundamental values of various Roundtable members (Michigan Wolf Management Roundtable 2006, p. 10).

Guiding principles also were provided by the Roundtable to stress the importance of continuing and enhancing information, education, and research components of wolf management and to include information in the management plan regarding the cultural and spiritual significance of the wolf to Native Americans. The Roundtable provided additional guiding principles that support a prohibition on the private possession of wolves without a permit, express concern that wolf-dog hybrids will have negative effects on the State's wild wolf population, and encourage annual review by a State wolf advisory council and plan updates at 5-year intervals.

Because the Michigan plan revision process will not be completed until late in 2007, we cannot evaluate the goals, strategies, or activities that it will contain. However, MI DNR has long been an innovative leader, not a reluctant follower, in wolf recovery efforts, exemplified by its initiation of the nation's first attempt to reintroduce wild wolves to vacant historical wolf habitat in 1974 (Weise *et al.* 1975). MI DNR's history of leadership in wolf recovery, its repeated written commitments to ensure the continued viability of a Michigan wolf population above a level that would trigger State or Federal listing as threatened or endangered, along with the protective ''Guiding Principles'' from the Michigan Wolf Management Roundtable, lead us to conclude that both the current Michigan Plan, and the revised plan to be developed using the guidance of the Roundtable, will provide adequate regulatory mechanisms for Michigan wolves. The DNR's goal remains to ''ensure the wolf population remains viable and above a level that would require either Federal or State reclassification as a threatened or endangered species'' (Moritz in litt. 2006) and upon Federal delisting to ''conduct management to ensure the persistence of a viable wolf population in Michigan, and thus preclude the need for its reclassification as threatened or endangered under State or Federal law'' (Koch in litt. 2006a).

Depredation Control in Michigan

Data from Michigan show a general increase in confirmed wolf depredations on livestock: 3 in 1998, 1 in 1999, 5 in 2000, 3 in 2001, 5 in 2002, 13 in 2003, 11 in 2004, and 5 in 2005. These livestock depredations occurred at 34 different UP farms; nearly three-quarters of the depredations were on cattle, with the rest on sheep, poultry and captive cervids (Beyer *et al.* 2006, p. 85).

Michigan has not experienced as high a level of attacks on dogs by wolves as Wisconsin, although a slight increase in such attacks has occurred over the last decade. The number of dogs killed in the State was one in 1996, two in 1999, three in 2001, four in 2002, eight in 2003, 4 in 2004, and 2 in 2005; seven additional dogs were injured in wolf attacks during that same period (Beyer *et al.* 2006, p. 93). Similar to Wisconsin, MI DNR has guidelines for its depredation control program, stating that lethal control will not be used when wolves kill dogs that are free-roaming, hunting, or training on public lands. Lethal control of wolves, however, would be considered if wolves have killed confined pets and remain in the area where more pets are being held (MI DNR 2005a, p. 6).

During the several years that lethal control of depredating wolves had been conducted in Michigan, there is no evidence of resulting adverse impacts to the maintenance of a viable wolf population in the UP. Four, six, two, and seven wolves, respectively, were euthanized in 2003, 2004, 2005, and 2006 (Beyer *et al.* 2006, p. 88; Roell in litt. 2006c, p. 1). This represents 1.2 percent, 1.7 percent, 0.5 percent, and 1.6 percent, respectively, of the UP's late winter population of wolves during the previous winter. Following this level of lethal depredation control, the UP wolf population increased 12 percent from 2003 to 2004, 13 percent from 2004 to 2005, and 7 percent from 2005 to 2006, demonstrating that the wolf population continues to increase at a healthy rate (Huntzinger *et al.* 2005, p. 6; MI DNR 2006a).

Post-delisting Depredation Control in Michigan

Following Federal delisting, wolf depredation control in Michigan would be carried out according to the 1997 Michigan Wolf Recovery and Management Plan (MI DNR 1997), the revised Michigan management plan when completed, and any Tribal wolf management plans that may be developed in the future for reservations in occupied wolf range. Until such time as MI DNR adopts changes to wolf depredation control measures, the following management practices will be used following the effective date of Federal delisting.

To provide depredation control guidance when lethal control is an option, MI DNR has developed detailed instructions for incident investigation and response (MI DNR 2005a). Verification of wolf depredation incidents will be conducted by MI DNR or USDA-APHIS-Wildlife Services personnel (working under a cooperative agreement with MI DNR or at the request of a Tribe, depending on the location) who have been trained in depredation investigation techniques. The MI DNR specifies that the verification process will use the investigative techniques that have been developed and successfully used in Minnesota by Wildlife Services (MI DNR 2005a, Append. B, pp. 9–10). Following verification, one or more of several options will be implemented to address the depredation problem. Technical assistance, consisting of advice or recommendations to reduce wolf conflicts, will be provided. Technical assistance may also include providing to the landowner various forms of non-injurious behavior modification materials, such as flashing lights, noise makers, temporary fencing, and fladry.

Trapping and translocating depredating wolves has been used in the past, resulting in the translocation of 23 UP wolves during 1998–2003 (Beyer *et al.* 2006, p. 88), and it may be used in the future, but as with Wisconsin, suitable relocation sites are becoming rarer, and there is local opposition to the release of translocated depredators. Furthermore, none of the past translocated depredators have remained

near their release sites, making this a questionable method to end the depredation behaviors of these wolves (MI DNR 2005a, pp. 3–4).

Lethal control of depredating wolves is likely to be the most common future response in situations when improved livestock husbandry and wolf behavior modification techniques (e.g., flashing lights, noise-making devices) are judged to be inadequate. As wolf numbers continue to increase on the UP, the number of verified depredations will also increase, and will probably do so at a rate that exceeds the rate of wolf population increase. This will occur as wolves increasingly disperse into and occupy areas of the UP with more livestock and more human residences, leading to additional exposure to domestic animals. In a recent application for a lethal take permit under section 10(a)(1)(A) of the Act, MI DNR requested authority to euthanize up to 10 percent of the late-winter wolf population annually (MI DNR 2005b, p. 1). However, based on 2003–2005 depredation data, it is likely that significantly less than 10 percent lethal control will be needed over the next several years.

The Michigan Wolf Management Roundtable has provided recommendations to guide management of various conflicts caused by wolf recovery, including depredation on livestock and pets, human safety, and public concerns regarding wolf impacts on other wildlife. We view the Roundtable's depredation and conflict control recommendations to be conservative, in that they recommend non-lethal depredation management whenever possible, oppose preventative wolf removal where problems have not yet occurred, encourage incentives for best management practices that decrease wolf-livestock practices without impacting wolves, and support closely monitored and enforced take by landowners of wolves ''in the act of livestock depredation'' or under limited permits if depredation is confirmed and non-lethal methods are determined to be ineffective. Based on these guiding principles for the revised MI Plan, the current MI Plan, and stated goals for maintaining wolf populations at or above recovery goals, the Service believes any wolf management changes will not be implemented in a manner that results in significant reductions in Michigan wolf populations. At this time, MI DNR remains committed to ensuring a viable wolf population above a level that would trigger Federal relisting as either threatened or endangered in the future (Koch in litt. 2006a), and we do not see any indication from their Plan revision efforts that the DNR is departing from that commitment.

Similar to Wisconsin, Michigan livestock owners are compensated when they lose livestock as a result of a confirmed wolf depredation. Currently there are two complementary compensation programs in Michigan, one funded by the MI DNR and implemented by Michigan Department of Agriculture (MI DA) and another set up through donations (from Defenders of Wildlife and private citizens) and administered by the International Wolf Center (IWC), a non-profit organization. From the inception of the program to 2000, MI DA has paid 90 percent of full market value of depredated livestock value at the time of loss. The IWC account was used to pay the remaining 10 percent from 2000 to 2002 when MI DA began paying 100 percent of the full market value of depredated livestock. The IWC account continues to be used to pay the difference between value at time of loss and the full fall market value for depredated young of the year livestock, and together the two funds have provided nearly $20,000 in livestock loss compensation through 2005 (Beyer *et al.* 2006, p. 86). Neither of these programs provide compensation for pets or for veterinary costs to treat wolf-inflicted livestock injuries. The MI DNR plans to continue cooperating with MI DA and other organizations to maintain the wolf depredation compensation program (Pat Lederle pers. comm. 2004).

The complete text of the Wisconsin, Michigan, and Minnesota wolf plans, as well as our summaries of those plans, can be found on our Web site (see **FOR FURTHER INFORMATION CONTACT** section above).

Regulatory Mechanisms in Other States and Tribal Areas Within the WGL DPS

North Dakota and South Dakota

North Dakota lacks a State endangered species law or regulations. Any gray wolves in the State currently are classified as furbearers, with a closed season. North Dakota Game and Fish Department is unlikely to change the species' State classification immediately following Federal delisting. Wolves are included in the State's July 2004 list of 100 Species of Conservation Concern as a ''Level 3'' species. Level 3 species are those ''having a moderate level of conservation priority, but are believed to be peripheral or do not breed in North Dakota.'' Placement on this list gives species greater access to conservation funding, but does not afford any additional regulatory or legislative protection (Bicknell in litt. 2005).

Currently any wolves that may be in South Dakota are not State listed as threatened or endangered, nor is there a hunting or trapping season for them. Upon the effective date of Federal delisting gray wolves in eastern South Dakota will fall under general protections afforded all State wildlife. These protections require specific provisions—seasons and regulations—be established prior to initiating any form of legal take. Thus, the State could choose to implement a hunting or trapping season for gray wolves east of the Missouri River; however, absent some definitive action to establish a season, wolves would remain protected. Following Federal delisting, any verified depredating wolves east of the Missouri will likely be trapped and killed by the USDA-APHIS-Wildlife Services program (Larson in litt. 2005). Non-depredating federally-delisted wolves in North and South Dakota will continue to receive protection by the States' wildlife protection statutes unless specific action is taken to open a hunting or trapping season or otherwise remove existing protections.

Post-delisting Depredation Control in North and South Dakota

Since 1993, five incidents of verified wolf depredation have occurred in North Dakota, with one in September 2003 and two more in December 2005. There have been no verified wolf depredations in South Dakota in recent decades. Following Federal delisting we assume that lethal control of a small number of depredating wolves will occur in one or both of these States. Lethal control of depredating wolves may have adverse impacts on the ability of wolves to occupy any small areas of suitable or marginally suitable habitat that may exist in the States. However, lethal control of depredating wolves in these two States will have no adverse affects on the long-term viability of wolf populations in the WGL DPS as a whole, because the existence of a wolf or a wolf population in the Dakotas will not make a meaningful contribution to the maintenance of the current viable, self-sustaining, and representative metapopulation of wolves in the WGL DPS.

Other States in the Western Great Lakes DPS

This delisted DPS includes the portion of Iowa that is north of Interstate Highway 80, which is approximately 60 percent of the State. The Iowa Natural Resource Commission currently lists gray wolves as furbearers, with a closed

season (Howell in litt. 2005). If the State retains this listing following Federal delisting of this DPS, wolves dispersing into northern Iowa will be protected by State law.

The portion of Illinois that is north of Interstate Highway 80, less than one-fifth of the State, is included in this DPS, and is part of the geographic area where wolves are now delisted and removed from Federal protection. Gray wolves are currently protected in Illinois as a threatened species under the Illinois Endangered Species Protection Act (520 ILCS 10). Thus, following this Federal delisting, wolves dispersing into northern Illinois will continue to be protected from human take by State law.

The extreme northern portions of Indiana and northwestern Ohio are included within this delisted DPS, and any wolves that are found in this area are no longer federally protected under the Act. The State of Ohio classifies the gray wolf as ''extirpated,'' and there are no plans to reintroduce or recover the species in the State. The species lacks State protection, but State action is likely to apply some form of protection if wolves begin to disperse into the State (Caldwell in litt. 2005). Indiana DNR lists the gray wolf as extirpated in the State, and the species would receive no State protection under this classification following this Federal delisting. The only means to provide State protection would be to list them as State-endangered, but that is not likely to occur unless wolves become resident in Indiana (Johnson in litt. 2005, in litt. 2006). Thus, federally delisted wolves that might disperse into Indiana and Ohio would lack State protection there, unless these two States take specific action to provide new protections.

Because the portions of Iowa, Illinois, Indiana, and Ohio within the WGL DPS do not contain suitable habitat or currently established packs, depredation control in these States will not have any significant impact on the continued viability of the WGL DPS wolf populations.

Tribal Management and Protection of Gray Wolves

Native American tribes and multi-tribal organizations have indicated to the Service that they will continue to conserve wolves on most, and probably all, Native American reservations in the core recovery areas of the WGL DPS. The wolf retains great cultural significance and traditional value to many Tribes and their members (additional discussion is found in Factor E), and to retain and strengthen cultural connections, many tribes oppose unnecessary killing of wolves on reservations and on ceded lands, even following Federal delisting (Hunt in litt. 1998; Schrage in litt. 1998a; Schlender in litt. 1998). Some Native Americans view wolves as competitors for deer and moose, whereas others are interested in harvesting wolves as furbearers (Schrage in litt. 1998a). Many tribes intend to sustainably manage their natural resources, wolves among them, to ensure that they are available to their descendants. Traditional natural resource harvest practices, however, often include only a minimum amount of regulation by the Tribal government (Hunt in litt. 1998).

Although the Tribes with wolves that visit or reside on their reservations do not yet have management plans specific to the gray wolf, several Tribes have informed us that they have no plans or intentions to allow commercial or recreational hunting or trapping of the species on their lands after Federal delisting. The Service has recently provided the Little Traverse Bay Band of Odawa Indians (Michigan) with grant funding to develop a gray wolf monitoring and management plan. The Service has also awarded a grant to the Ho-Chunk Nation to identify wolf habitat on reservation lands.

As a result of many past contacts with, and previous written comments from, the Midwestern Tribes and their off-reservation natural resource management agencies—the Great Lakes Indian Fish and Wildlife Commission (GLIFWC), the 1854 Authority, and the Chippewa Ottawa Treaty Authority—it is clear that their predominant sentiment is strong support for the continued protection of wolves at a level that ensures that viable wolf populations remain on reservations and throughout the treaty-ceded lands surrounding the reservations. While several Tribes stated that their members may be interested in killing small numbers of wolves for spiritual or other purposes, this would be carried out in a manner that would not impact reservation or ceded territory wolf populations.

The Tribal Council of the Leech Lake Band of Minnesota Ojibwe (Council) approved a resolution that describes the sport and recreational harvest of gray wolves as an inappropriate use of the animal. That resolution supports limited harvest of wolves to be used for traditional or spiritual uses by enrolled Tribal members if the harvest is done in a respectful manner and would not negatively affect the wolf population. The Council is revising the Reservation Conservation Code to allow Tribal members to harvest some wolves after Federal delisting (Googgleye, Jr. in litt. 2004). In 2005, the Leech Lake Reservation was home to an estimated 75 gray wolves, the largest population of wolves on a Native American reservation in the 48 conterminous States (Mortensen pers. comm. 2006; White in litt. 2003).

The Red Lake Band of Chippewa Indians (Minnesota) has indicated that it is likely to develop a wolf management plan that will be very similar in scope and content to the plan developed by the MN DNR. The Band's position on wolf management is ''wolf preservation through effective management,'' and the Band is confident that wolves will continue to thrive on their lands (Bedeau in litt. 1998). The Reservation currently has nine packs with an estimated 15–30 wolves within its boundaries (Huseby pers. comm. 2006).

The Fond du Lac Band (Minnesota) believes that the ''well being of the wolf is intimately connected to the well being of the Chippewa People'' (Schrage in litt. 2003). In 1998, the Band passed a resolution opposing Federal delisting and any other measure that would permit trapping, hunting, or poisoning of the gray wolf (Schrage in litt. 1998b, in litt. 2003). If this prohibition is rescinded, the Band's Resource Management Division will coordinate with State and Federal agencies to ensure that any wolf hunting or trapping would be ''conducted in a biologically sustainable manner'' (Schrage in litt. 2003).

The Red Cliff Band (Wisconsin) has strongly opposed State and Federal delisting of the gray wolf. Current Tribal law protects gray wolves from harvest, although harvest for ceremonial purposes would likely be permitted after Federal delisting (Symbal in litt. 2003).

The Keweenaw Bay Indian Community (Michigan) will continue to list the gray wolf as a protected animal under the Tribal Code following Federal delisting, with hunting and trapping prohibited (Mike Donofrio pers. comm. 1998). Furthermore, the Keweenaw Bay Community plans to develop a Protected Animal Ordinance that will address gray wolves (Donofrio in litt. 2003).

While we have not received any written comments from the Menominee Indian Tribe of Wisconsin, the Tribe has shown a great deal of interest in wolf recovery and protection in recent years. In 2002, the Tribe offered their Reservation lands as a site for translocating seven depredating wolves that had been trapped by WI DNR and Wildlife Services. Tribal natural resources staff participated in the soft

release of the wolves on the Reservation and helped with the subsequent radio-tracking of the wolves. Although by early 2005 the last of these wolves died on the reservation, the tribal conservation department continued to monitor another pair that had moved onto the Reservation, as well as other wolves near the reservation (Wydeven in litt. 2006a). When that pair produced pups in 2006, but the adult female was killed, Reservation biologists and staff worked diligently with the WI DNR and the Wildlife Science Center (Forest Lake, Minnesota) to raise the pups in captivity in the hope that they could later be released to the care of the adult male. However, the adult male died prior to pup release, and they have been moved back to the Wildlife Science Center where they will likely remain in captivity (Pioneer Press 2006).

Several Midwestern tribes (e.g., the Bad River Band of Lake Superior Chippewa Indians and the Little Traverse Bay Bands of Odawa Indians) have expressed concern that Federal delisting will result in increased mortality of gray wolves on reservation lands, in the areas immediately surrounding the reservations, and in lands ceded by treaty to the Federal Government by the Tribes (Kiogama and Chingwa in litt. 2000). At the request of the Bad River Tribe of Lake Superior Chippewa Indians, we are currently working with their Natural Resource Department and WI DNR to develop a wolf management agreement for lands adjacent to the Bad River Reservation. The Tribe's goal is to reduce the threats to reservation wolf packs when they are temporarily off the reservation. Other Tribes have expressed interest in such an agreement. If this and similar agreements are implemented, they will provide additional protection to certain wolf packs in the midwestern US.

The GLIFWC has stated its intent to work closely with the States to cooperatively manage wolves in the ceded territories in the core areas, and will not develop a separate wolf management plan (Schlender in litt. 1998). Furthermore, the Voigt Intertribal Task Force of GLIFWC has expressed its support for strong protections for the wolf, stating '' [delisting] hinges on whether wolves are sufficiently restored and will be sufficiently protected to ensure a healthy and abundant future for our brother and ourselves'' (Schlender in litt. 2004).

According to the 1854 Authority, ''attitudes toward wolf management in the 1854 Ceded Territory run the gamut from a desire to see total protection to unlimited harvest opportunity.'' However, the 1854 Authority would not ''implement a harvest system that would have any long-term negative impacts to wolf populations'' (Edwards in litt. 2003). In comments submitted for our 2004 delisting proposal for a larger Eastern DPS of the gray wolf, the 1854 Authority stated that the Authority does not have a wolf management plan for the 1854 Ceded Territory, but is ''confident that under the control of state and tribal management, wolves will continue to exist at a self-sustaining level in the 1854 Ceded Territory* * *. Sustainable populations of wolves, their prey and other resources within the 1854 Ceded Territory are goals to which the 1854 Authority remains committed. As such, we intend to work with the State of Minnesota and other tribes to ensure successful state and tribal management of healthy wolf populations in the 1854 Ceded Territory'' (Myers in litt. 2004).

While there are few written Tribal protections currently in place for gray wolves, the highly protective and reverential attitudes that have been expressed by Tribal authorities and members have assured us that any post-delisting harvest of reservation wolves would be very limited and would not adversely impact the delisted wolf populations. Furthermore, any off-reservation harvest of wolves by Tribal members in the ceded territories would be limited to a portion of the harvestable surplus at some future time. Such a harvestable surplus would be determined and monitored jointly by State and Tribal biologists, and would be conducted in coordination with the Service and the Bureau of Indian Affairs, as is being successfully done for the ceded territory harvest of inland and Great Lakes fish, deer, bear, moose, and furbearers in Minnesota, Wisconsin, and Michigan. Therefore, we conclude that any future Native American take of delisted wolves will not significantly impact the viability of the wolf population, either locally or across the WGL DPS.

Federal Lands

The five national forests with resident wolves (Superior, Chippewa, Chequamegon-Nicolet, Hiawatha, and Ottawa National Forests) in Minnesota, Wisconsin, and Michigan are all operating in conformance with standards and guidelines in their management plans that follow the 1992 Recovery Plan's recommendations for the Eastern Timber Wolf (USDA FS 2004a, chapter 2, p. 31; USDA FS 2004b, chapter 2, p. 28; USDA FS 2004c, chapter 2, p. 19; USDA FS 2006a, chapter 2, p. 17; USDA FS 2006b, chapter 2, p. 28–29). Delisting is not expected to lead to an immediate change in these standards and guidelines; in fact, the Regional Forester for U.S. Forest Service Region 9 is expected to maintain the classification of the gray wolf as a Regional Forester Sensitive Species for at least 5 years after Federal delisting (Moore in litt. 2003). Under these standards and guidelines, a relatively high prey base will be maintained, and road densities will be limited to current levels or decreased. For example, on the Chequamegon-Nicolet National Forest in Wisconsin, the standards and guidelines specifically include the protection of den sites and key rendezvous sites, and management of road densities in existing and potential wolf habitat (USDA 2004c, Chap. 2 p. 19). The trapping of depredating wolves would likely be allowed on national forest lands under the guidelines and conditions specified in the respective State wolf management plans. However, there are relatively few livestock raised within the boundaries of national forests in the upper midwest, so wolf depredation and lethal control of wolves is neither likely to be a frequent occurrence, nor constitute a significant mortality factor, for the WGL DPS. Similarly, in keeping with the practice for other state-managed game species, any public hunting or trapping season for wolves that might be opened in the future by the States would likely include hunting and trapping within the national forests (Lindquist in litt. 2005; Williamson in litt. 2005; Piehler in litt. 2005; Evans in litt. 2005). The continuation of current national forest management practices will be important in ensuring the long-term viability of gray wolf populations in Minnesota, Wisconsin, and Michigan.

Gray wolves regularly use four units of the National Park System in the WGL DPS and may occasionally use three or four other units. Although the National Park Service (NPS) has participated in the development of some of the State wolf management plans in this area, NPS is not bound by States' plans. Instead, the NPS Organic Act and the NPS Management Policy on Wildlife generally require the agency to conserve natural and cultural resources and the wildlife present within the parks. National Park Service management policies require that native species be protected against harvest, removal, destruction, harassment, or harm through human action, although certain parks may allow some harvest in accordance with state management plans. Management emphasis in National Parks after delisting will

continue to minimize the human impacts on wolf populations. Thus, because of their responsibility to preserve all native wildlife, units of the National Park System are often the most protective of wildlife. In the case of the gray wolf, the NPS Organic Act and NPS policies will continue to provide protection following Federal delisting.

Management and protection of wolves in Voyageurs National Park, along Minnesota's northern border, is not likely to change after delisting. The park's management policies require that ''native animals will be protected against harvest, removal, destruction, harassment, or harm through human action.'' No population targets for wolves will be established for the NP (Holbeck in litt. 2005). To reduce human disturbance, temporary closures around wolf denning and rendezvous sites will be enacted whenever they are discovered in the park. Sport hunting is already prohibited on park lands, regardless of what may be allowed beyond park boundaries (West in litt. 2004). A radio telemetry study conducted between 1987–91 of wolves living in and adjacent to the park found that all mortality inside the park was due to natural causes (e.g., killing by other wolves or starvation), whereas the majority (60–80 percent) of mortality outside the park was human-induced (e.g., shooting and trapping) (Gogan *et al.* 2004, p. 22). If there is a need to control depredating wolves outside the park, which seems unlikely due to the current absence of agricultural activities adjacent to the park, the park would work with the State to conduct control activities where necessary (West in litt. 2004).

The wolf population in Isle Royale National Park is described above (see Michigan Recovery). The NPS has indicated that it will continue to closely monitor and study these wolves. This wolf population is very small and isolated from the other WGL DPS gray wolf populations; as described above, it is not considered to be significant to the recovery or long-term viability of the gray wolf (USFWS 1992, p. 28).

Two other units of the National Park System, Pictured Rocks National Lakeshore and St. Croix National Scenic Riverway, are regularly used by wolves. Pictured Rocks National Lakeshore is a narrow strip of land along Michigan's Lake Superior shoreline. Lone wolves periodically use, but do not appear to be year-round residents of, the Lakeshore. If denning occurs after delisting, the Lakeshore would protect denning and rendezvous sites at least as strictly as the Michigan Plan recommends (Gustin in litt. 2003). Harvesting wolves on the Lakeshore may be allowed (i.e., if the Michigan DNR allows for harvest in the State), but trapping is not allowed. The St. Croix National Scenic Riverway, in Wisconsin and Minnesota, is also a mostly linear ownership. At least 18 wolves from 6 packs use the Riverway. The Riverway is likely to limit public access to denning and rendezvous sites and to follow other management and protective practices outlined in the respective State wolf management plans, although trapping is not allowed on NPS lands except possibly by Native Americans (Maercklein in litt. 2003).

Gray wolves occurring on NWRs in the WGL DPS will be monitored, and refuge habitat management will maintain the current prey base for them for a minimum of 5 years after delisting. Trapping or hunting by government trappers for depredation control will not be authorized on NWRs. Because of the relatively small size of these NWRs, however, most or all of these packs and individual wolves also spend significant amounts of time off of these NWRs.

Gray wolves also occupy the Fort McCoy military installation in Wisconsin. In 2003, one pack containing five adult wolves occupied a territory that included the majority of the installation; in 2004 and 2006, the installation had one pack with two adults; in 2005 there was a single pack with 4 wolves. Management and protection of wolves on the installation will not change significantly after Federal and/or State delisting. Den and rendezvous sites would continue to be protected, hunting seasons for other species (*i.e.* coyote) would be closed during the gun-deer season, and current surveys would continue, if resources are available. Fort McCoy has no plans to allow a public harvest of wolves on the installation (Nobles in litt. 2004; Wydeven *et al.* 2005a, p. 25; 2006a, p. 25).

At least one pair of wolves produced pups on Camp Ripley Army National Guard Training Facility in Minnesota since 1994. This military base currently hosts two packs that have the majority of their territories within the base boundaries. The population of the two packs generally ranges between 10 and 20 animals. Currently three wolves in each pack are being radio-tracked. There have been no significant conflicts with military training or with the permit-only public deer hunting program there, and no new conflicts are expected following delisting (Brian Dirks pers. comm. 2006).

The protection afforded to resident and transient wolves, their den and rendezvous sites, and their prey by five national forests, four National Parks, two military facilities, and numerous National Wildlife Refuges in Minnesota, Wisconsin, and Michigan would further ensure the conservation of wolves in the three States after delisting. In addition, wolves that disperse to other units of the National Refuge System or the National Park System within the WGL DPS will also receive the protection afforded by these Federal agencies.

In summary, following this Federal delisting of the WGL DPS of gray wolves, there will be varying State and Tribal classifications and protections provided to wolves. The wolf management plans currently in place for Minnesota, Wisconsin, and Michigan will be more than sufficient to retain viable wolf populations in each State that are above the Federal recovery criteria for wolf metapopulation subunits, and even for three completely isolated wolf populations. These State plans provide a very high level of assurance that wolf populations in these three States will not decline to nonviable levels in the foreseeable future. Furthermore, the 2006 Update to the Wisconsin Wolf Management Plan (WI DNR 2006a, p. 3–4) demonstrates the State's commitment by retaining the previous management goal of 350 wolves, and it did not weaken any significant component of the original 1999 Plan. Similarly, current work on revising the Michigan wolf plan is being conducted in a manner that will maintain the State's commitments to maintain viable wolf populations after this Federal delisting. While these State plans recognize there may be a need to control or even reduce wolf populations at some future time, none of the plans include a public harvest of wolves.

Federally delisted wolves in Minnesota, Wisconsin, and Michigan will continue to receive protection from general human persecution by State laws and regulations. Michigan has met the criteria established in their management plan for State delisting and, subsequent to Federal delisting, intends to amend the Wildlife Conservation Order to grant ''protected animal'' status to the gray wolf. That status would ''prohibit take, establish penalties and restitution for violations of the Order, and detail conditions under which lethal depredation control measures could be implemented'' (Humphries in litt. 2004). Following Federal delisting, Wisconsin will fully implement a ''protected wild animal'' for the species, including protections that provide for fines of $1,000 to $2,000 for unlawful hunting. Minnesota DNR will consider population management measures, including public hunting and trapping, but this will not occur sooner

than 5 years after Federal delisting and will maintain a wolf population of at least 1600 animals (MN DNR 2001, p. 2). In the meantime, wolves in Zone A could only be legally taken in Minnesota for depredation management or public safety, and Minnesota plans to increase its capability to enforce laws against take of wolves (MN DNR 2001, pp. 3–4).

Except for the very small portions of Indiana and Ohio, WGL DPS wolves are likely to remain protected by various state designations for the immediate future. States within the boundaries of the DPS either currently have mechanisms in place to kill depredating wolves (North Dakota and South Dakota) or can be expected to develop mechanisms following this Federal delisting of the DPS, in order to deal with wolf-livestock conflicts in areas where wolf protection is no longer required by the Act. Because these States constitute only about one-third of the land area within the DPS, and contain virtually no suitable habitat of sufficient size to host viable gray wolf populations, it is clear that even complete protection for gray wolves in these areas would neither provide significant benefits to wolf recovery in the DPS, nor to the long-term viability of the recovered populations that currently reside in the DPS. Therefore, although current and potential future regulatory mechanisms may allow the killing of gray wolves in these six States, these threats, and the area in which they will be manifest, will not impact the recovered wolf populations in the DPS now or in the foreseeable future.

Finally, although to our knowledge no Tribes have completed wolf management plans at this time, based on communications with Tribes and Tribal organizations, federally-delisted wolves are very likely to be adequately protected on Tribal lands. Furthermore, the numerical recovery criteria in the Federal Recovery Plan would be achieved and maintained (based on the population and range of off-reservation wolves) even without Tribal protection of wolves on reservation lands. In addition, on the basis of information received from other Federal land management agencies in Minnesota, Wisconsin, and Michigan, we expect National Forests, units of the National Park System, military bases, and National Wildlife Refuges will provide protections to gray wolves after delisting that will match, and in some cases will exceed, the protections provided by State wolf management plans and State protective regulations.

Therefore, we conclude that the regulatory mechanisms that will be in place subsequent to Federal delisting will preclude threats sufficient to cause the WGL DPS gray wolves to be in danger of extinction in the foreseeable future in all or a significant portion of the range within the WGL DPS.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Taking of Wolves by Native Americans for Religious, Spiritual, or Traditional Cultural Purposes

As noted elsewhere in this final rule, the wolf has great significance to many Native Americans in the Western Great Lakes area, especially to Wolf Clan members, and has a central role in their creation stories. The wolf, Ma' 'ingan, is viewed as a brother to the Anishinaabe people, and their fates are believed to be closely linked. Ma' 'ingan is a key element in many of their beliefs, traditions, and ceremonies, and wolf pack systems are used as a model for Anishinaabe families and communities. We are not aware of any takings of wolves in the Midwest for use in these traditions or ceremonies while the wolf has been listed as a threatened or endangered species. While wolves have been listed as threatened in Minnesota, we have instructed Wildlife Services to provide, upon request, gray wolf pelts and other parts from wolves killed during depredation control actions to Tribes in order to partially serve these traditional needs.

Some Tribal representatives, as well as the GLIFWC, have indicated that following delisting there is likely to be interest in the taking of small numbers of wolves for traditional ceremonies (King in litt. 2003; White in litt. 2003). This take could occur on reservation lands where it could be closely regulated by a Tribe to ensure that it does not affect the viability of the reservation wolf population. Such takings might also occur on off-reservation treaty lands on which certain Tribes retained hunting, fishing, and gathering rights when the land was ceded to the Federal Government in the 19th Century. Native American taking of wolves from ceded lands would be limited to a specified portion of a harvestable surplus of wolves that is established by the States in coordination with the Tribes, consistent with past Federal court rulings on treaty rights. Such taking will not occur until such time as a harvestable surplus has been documented based on biological data, and regulations and monitoring have been established by the States and Tribes to ensure a harvest can be carried out in a manner that ensures the continued viability of the wolf population in that State. Previous court rulings have ensured that Native American treaty harvest of fish or wildlife species have not risked endangering the resource.

If requested by the Tribes, multitribal natural resource agencies, and/or the States, the Service or other appropriate Federal agencies will work with these parties to help determine if a harvestable surplus exists, and if so, to assist in devising reasonable and appropriate methods and levels of harvest for delisted wolves for traditional cultural purposes.

We conclude that small number of wolves that may be taken by Native Americans will not be a threat sufficient to cause the WGL DPS gray wolves to be in danger of extinction in the foreseeable future in all or a significant portion of the range within the WGL DPS.

Public Attitudes Toward the Gray Wolf

An important determinant of the long-term status of gray wolf populations in the United States will be human attitudes toward this large predator. These attitudes are based on the conflicts between human activities and wolves, concern with the danger the species may pose to humans, its symbolic representation of wilderness, the economic effect of livestock losses, the emotions regarding the threat to pets, the perceived competition with hunters for deer and moose, the conviction that the species should never be a target of sport hunting or trapping, wolf traditions of Native American tribes, and other factors.

We have seen indications of a change in public attitudes toward the wolf over the last few decades. Public attitude surveys in Minnesota and Michigan (Kellert 1985, pp. 157–163; 1990, pp. 100–102; 1999, pp. 400–403), as well as the citizen input into the wolf management plans of Minnesota, Wisconsin, and Michigan, have indicated strong public support for wolf recovery if the adverse impacts on recreational activities and livestock producers can be minimized (MI DNR 1997, pp. 13–14, 50–56; MN DNR 1998, p. 2; WI DNR 1999, pp. 51–55; WI DNR 2006c, pp. 9–11). However, more recent surveys of Michigan residents may show that attitudes are changing now that the wolf recovery has succeeded and long-term wolf management is required. Although the majority of Michigan residents still support wolf recovery efforts, UP residents' support for wolf recovery has declined substantially since the 1990 Kellert survey (Mertig 2004, p. 37). At the same time, respondents from across the State have

increased their support for killing individual problem wolves; support for lethal control of problem wolves ranges from 70 percent in the Southern Lower Peninsula to 85 percent in the UP (Mertig 2004, p. 40). In Wisconsin, a number of recent surveys, when taken together, provide strong evidence of support for a Wisconsin wolf population of 250–350 wolves or more (Naughton-Treves *et al.* 2003; Schanning and Vazquez 2005; Naughton *et al.* 2005 unpublished report; WI DNR 2006a, p. 9).

Once this delisting is in effect, States and tribes will have increased flexibility to deal with wolf human conflicts, including the use of lethal control of problems wolves, as specified in their current wolf management plans. It is unclear whether such flexibility of wolf control will affect public attitudes towards wolves (i.e., diminish opposition to the local presence of wolves), due to the strong influence of other factors.

The Minnesota DNR recognizes that to maintain public support for wolf conservation it must work to ensure that people are well informed about wolves and wolf management in the State. Therefore, MN DNR plans to provide ''timely and accurate information about wolves to the public, to support and facilitate wolf education programs, and to encourage wolf ecotourism,'' among other activities (MN DNR 2001, pp. 29–30). Similarly, the Wisconsin and Michigan wolf management plans emphasize the need for long-term cooperative efforts with private educational and environmental groups to develop and distribute educational and informational materials and programs for public use (MI DNR 1997, p. 20; WI DNR 1999, pp. 26–27). We fully expect organizations such as the International Wolf Center (Ely, MN), the Timber Wolf Alliance (Ashland, WI), Timber Wolf Information Network (Waupaca, WI), the Wildlife Science Center (Forest Lake, MN), and other organizations to continue to provide educational materials and experiences with wolves far into the future, regardless of the Federal status of wolves.

In summary, we conclude that there is evidence showing strong public support for current wolf population levels in the WGL DPS, especially if problem wolves, and to a lesser extent wolf numbers, are controlled. This support is a key component in our assessment of threats to the WGL DPS. Notwithstanding a small but significant societal segment who is opposed to the current level of wolf recovery and which may resort to illegal actions if problem wolves and the overall wolf population is not adequately managed, we believe that delisting while public support for wolves is still strong, followed by more intensive management of wolf populations by the States, is the best way to reduce the level of threat caused by human-induced mortality. We conclude that public attitudes towards wolves now and in the foreseeable future will not be threats sufficient to cause the WGL DPS gray wolves to be in danger of extinction in the foreseeable future in all or a significant portion of the range within the WGL DPS.

Summary of Our Five-Factor Analysis of Potential Threats

As required by the Act, we considered the five potential threat factors to assess whether wolves are threatened or endangered throughout all or a significant portion of their range in the WGL DPS and, therefore, whether the WGL DPS should be listed as threatened or endangered. While wolves historically occurred over most of the DPS, large portions of this area are no longer significant, and the wolf population in the WGL DPS will remain centered in Minnesota, Michigan, and Wisconsin.

While we recognize that gray wolves in the WGL DPS do not occupy all portions of their historical range, including some disjunct but potentially suitable areas with low road and human density and a healthy prey base within the WGL DPS, wolves in this DPS no longer meet the definition of a threatened or endangered species. Although there may be historical habitat within the DPS that remains unoccupied, many of these areas are no longer suitable. None of these historical areas are significant portions of the range of the WGL DPS.

We have based our determinations on the current status of, and future threats likely to be faced by, existing wolf populations within the WGL DPS in the foreseeable future.

The number of wolves in the WGL DPS greatly exceeds the recovery criteria (USFWS 1992, pp. 24–26) for (1) a secure wolf population in Minnesota, and (2) a second population of 100 wolves for 5 successive years. Based on the criteria set by the Eastern Wolf Recovery Team in 1992 and reaffirmed in 1997 and 1998 (Peterson in litt. 1997, in litt. 1998), and endorsed by the peer reviewers, the DPS contains sufficient wolf numbers and distribution to ensure their long-term survival within the DPS. The maintenance and expansion of the Minnesota wolf population has maximized the preservation of the genetic diversity that remained in the WGL DPS when its wolves were first protected in 1974. Furthermore, the Wisconsin-Michigan wolf population has even exceeded the numerical recovery criterion for a completely isolated population. Therefore, even if this two-State population was to become totally isolated and wolf immigration from Minnesota and Ontario completely ceased, it would still remain a viable wolf population for the foreseeable future, as defined by the Recovery Plan (USFWS 1992, pp. 25–26). Finally, the wolf populations in Wisconsin and Michigan each have separately exceeded 200 animals for 8 and 7 years respectively, so if they each somehow were to become isolated, they are already above viable population levels, and each State has committed to manage its wolf population at or above viable population levels. The wolf's numeric and distributional recovery criteria in the WGL DPS clearly have been exceeded in both magnitude and duration. The wolf's recovery in numbers and distribution in the WGL DPS, together with the status of the remaining threats, indicates that the WGL DPS of the gray wolf is not in danger of extinction, nor likely to become an endangered species, within the foreseeable future throughout all or a significant portion of its range.

Post-delisting wolf protection, management, and population and health monitoring by the States, Tribes, and Federal land management agencies—especially in Minnesota Zone A, Wisconsin Zones 1 and 2, and across the UP of Michigan, which constitute the significant portion of the species' range—will ensure the continuation of viable wolf populations above the Federal recovery criteria for the foreseeable future. Post-delisting threats to wolves in Zone B in Minnesota, Zones 3 and 4 in Wisconsin, and in the Lower Peninsula of Michigan—all areas that are not significant portions of the range of the WGL DPS—will be more substantial, and may preclude the establishment of wolf packs in most or all of these areas in Wisconsin and Michigan. Similarly, the lack of sufficient areas of suitable habitat in those parts of North Dakota, South Dakota, Iowa, Illinois, Indiana, and Ohio that are within the WGL DPS are expected to preclude the establishment of viable populations in these areas, although dispersing wolves and packs may temporarily occur in some of these areas. However, these areas are not SPR and wolf numbers in these areas will have no impact on the continued viability of the recovered WGL DPS.

Reasonably foreseeable threats to wolves in all parts of the WGL DPS are not likely to threaten wolf population viability in the WGL DPS in the foreseeable future.

In summary, we find that the threat of habitat destruction or degradation or a reduction in the range of the gray wolf; utilization by humans; disease, parasites, or predatory actions by other animals or humans; regulatory measures by State, Tribal, and Federal agencies; or other threats will not individually or in combination be likely to cause the WGL DPS of the gray wolf to be in danger of extinction in the foreseeable future in all or a significant portion of the species' range. Ongoing effects of recovery efforts over the past decade, which resulted in a significant expansion of the occupied range of wolves in the WGL DPS, in conjunction with future State, Tribal, and Federal agency wolf management across that occupied range, will be adequate to ensure the conservation of the SPR of the WGL DPS. These activities will maintain an adequate prey base, preserve denning and rendezvous sites and dispersal corridors, monitor disease, restrict human take, and keep wolf populations well above the numerical recovery criteria established in the Federal Recovery Plan for the Eastern Timber Wolf (USFWS 1992, pp. 25–28).

After a thorough review of all available information and an evaluation of the previous five factors specified in section 4(a)(1) of the Act, as well as consideration of the definitions of ''threatened'' and ''endangered'' contained in the Act and the reasons for delisting as specified in 50 CFR 424.11(d), we conclude that removing the WGL DPS from the List of Endangered and Threatened Wildlife (50 CFR 17.11) is appropriate. Gray wolves have recovered in the WGL DPS as a result of the reduction of threats as described in the analysis of the five categories of threats.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The final rule removes these Federal conservation measures for all gray wolves within the WGL DPS.

Effects of the Rule

This rule removes the protections of the Act for the WGL DPS. The protections of the Act will still continue to apply to the gray wolves outside the WGL DPS, where appropriate.

This final rule removes the special regulations under section 4(d) of the Act for wolves in Minnesota. These regulations currently are found at 50 CFR 17.40(d).

Critical habitat was designated for the gray wolf in 1978 (43 FR 9607, March 9, 1978). That rule (codified at 50 CFR 17.95(a)) identifies Isle Royale National Park, Michigan, and Minnesota wolf management zones 1, 2, and 3, as delineated in 50 CFR 17.40(d)(1), as critical habitat. Wolf management zones 1, 2, and 3 comprise approximately 25,500 sq km (9,845 sq mi) in northeastern and north-central Minnesota. This final rule removes the designation of critical habitat for gray wolves in Minnesota and on Isle Royale, Michigan.

This notice does not apply to the listing or protection of the red wolf (*C. rufus*) or change the regulations for the three non-essential experimental populations of gray wolves. Furthermore, the remaining protections of the gray wolf under the Act do not extend to gray wolf-dog hybrids.

Post-Delisting Monitoring

Section 4(g)(1) of the Act, added in the 1988 reauthorization, requires us to implement a system, in cooperation with the States, to monitor for not less than 5 years the status of all species that have recovered and been removed from the Lists of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12). The purpose of this post-delisting monitoring (PDM) is to verify that a species delisted due to recovery remains secure from risk of extinction after it no longer has the protections of the Act. To do this, PDM generally focuses on evaluating (1) demographic characteristics of the species, (2) threats to the species, and (3) implementation of legal and/or management commitments that have been identified as important in reducing threats to the species or maintaining threats at sufficiently low levels. We are to make prompt use of the emergency listing authorities under section 4(b)(7) of the Act to prevent a significant risk to the well-being of any recovered species. Section 4(g) of the Act explicitly requires cooperation with the States in development and implementation of PDM programs, but we remain responsible for compliance with section 4(g) and, therefore, must remain actively engaged in all phases of PDM. We also will seek active participation of other entities that are expected to assume responsibilities for the species' conservation, after delisting.

We are developing a PDM plan for the gray wolves in the WGL DPS with the assistance of the Eastern Gray Wolf Recovery Team. Once completed, we will make that document available on our web site (See **FOR FURTHER INFORMATION CONTACT** section). At this time, we anticipate the PDM program will be a continuation of State monitoring activities similar to those which have been conducted by Minnesota, Wisconsin, and Michigan DNR's in recent years. These States comprise the core recovery areas within the DPS, and therefore the numerical recovery criteria in the Recovery Plan apply only to them. These activities will include both population monitoring and health monitoring of individual wolves. During the PDM period, the Service and the Recovery Team will conduct a review of the monitoring data and program. We will consider various relevant factors (including but not limited to mortality rates, population changes and rates of change, disease occurrence, range expansion or contraction) to determine if the population of gray wolves within the DPS warrants expanded monitoring, additional research, consideration for relisting as threatened or endangered, or emergency listing.

Minnesota, Wisconsin, and Michigan DNRs have monitored wolves for several decades with significant assistance from numerous partners, including the U.S. Forest Service, National Park Service, USDA-APHIS-Wildlife Services, Tribal natural resource agencies, and the Service. To maximize comparability of future PDM data with data obtained before delisting, all three State DNRs have committed to continue their previous wolf population monitoring methodology, or will make changes to that methodology only if those changes will not reduce the comparability of pre- and post-delisting data.

In addition to monitoring wolf population numbers and trends, the PDM will evaluate post-delisting threats, in particular human-caused mortality, disease, and implementation of legal and management commitments. If at any time during the monitoring period we detect a substantial downward change in the populations or an increase in threats to the degree that population viability may be threatened, we will evaluate and change (intensify, extend, and/or otherwise improve) the

monitoring methods, if appropriate, and/or consider relisting the WGL DPS, if warranted.

This monitoring program will extend for 5 years beyond the effective delisting date of the DPS. At the end of the 5-year period we and the Recovery Team will conduct another review and post the results on our web site. In addition to the above considerations, the review will determine whether the PDM program should be terminated or extended.

Required Determinations

National Environmental Policy Act

We have determined that an Environmental Assessment or an Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320 implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The OMB regulations at 5 CFR 1320.3(c) define a collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, 10 or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that ''ten or more persons'' refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For purposes of this definition, employees of the Federal Government are not included. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This rule does not include any collections of information that require approval by OMB under the Paperwork Reduction Act. As proposed under the *Post-delisting Monitoring* section above, gray wolf populations in the Western Great Lakes DPS will be monitored by the States of Michigan, Minnesota, and Wisconsin in accordance with their gray wolf State management plans. There may also be additional voluntary monitoring activities conducted by a small number of tribes in these three States. We do not anticipate a need to request data or other information from 10 or more persons during any 12-month period to satisfy monitoring information needs. If it becomes necessary to collect standardized information from 10 or more non-Federal individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this final rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have coordinated the proposed rule and this final rule with the affected Tribes. Throughout several years of development of earlier related rules and the proposed rule, we have endeavored to consult with Native American tribes and Native American organizations in order to both (1) provide them with a complete understanding of the proposed changes, and (2) to understand their concerns with those changes. We have fully considered their comments during the development of this final rule. If requested, we will conduct additional consultations with Native American tribes and multitribal organizations subsequent to this final rule in order to facilitate the transition to State and tribal management of gray wolves within the WGL DPS.

References Cited

A complete list of all references cited in this document is available upon request from the Ft. Snelling, Minnesota, Regional Office and is posted on our Web site (see **FOR FURTHER INFORMATION CONTACT** section above).

Author

The primary author of this final rule is Ronald L. Refsnider, U.S. Fish and Wildlife Service, Ft. Snelling, Minnesota, Regional Office (see **FOR FURTHER INFORMATION CONTACT** section above).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h) by revising the entry for ''Wolf, gray'' under ''MAMMALS'' in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	
Wolf, gray	*Canis lupus*	Holarctic	U.S.A., conterminous (lower 48) States, except: (1) Where listed as an experimental population below; (2) Minnesota, Wisconsin, Michigan, eastern North Dakota (that portion north and east of the Missouri River upstream to Lake Sakakawea and east of the centerline of Highway 83 from Lake Sakakawea to the Canadian border), eastern South Dakota (that portion north and east of the Missouri River), northern Iowa, northern Illinois, and northern Indiana (those portions of IA, IL, and IN north of the centerline of Interstate Highway 80), and northwestern Ohio (that portion north of the centerline of Interstate Highway 80 and west of the Maumee River at Toledo); and (3) Mexico.	E	1, 6, 13, 15, 35, 561, 562, 631, 745.	NA	NA
Do	...do	...do	U.S.A. (WY and portions of ID and MT—see 17.84(i) and (n).	XN	561, 562, 745.	NA	17.84(i) 17.84(n)
Do	...do	...do	U.S.A. (portions of AZ, NM, and TX—see 17.84(k)).	XN	631	NA	17.84(k)
*	*	*	*	*	*	*	

§ 17.40 [Amended]

■ 3. Amend § 17.40 by removing and reserving paragraph (d) and removing paragraphs (n) and (o).

§ 17.95 [Amended]

■ 4. Amend § 17.95(a) by removing the critical habitat entry for ''Gray Wolf *(Canis lupus)*.''

Dated: January 29, 2007.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 07–471 Filed 2–7–07; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Thursday,
February 8, 2007

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designating the Northern Rocky Mountain Population of Gray Wolf as a Distinct Population Segment and Removing This Distinct Population Segment From the Federal List of Endangered and Threatened Wildlife; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU53

Endangered and Threatened Wildlife and Plants; Designating the Northern Rocky Mountain Population of Gray Wolf as a Distinct Population Segment and Removing This Distinct Population Segment From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Under the Endangered Species Act (Act), we, the U.S. Fish and Wildlife Service (Service), propose to establish a distinct population segment (DPS) of the gray wolf (*Canis lupus*) in the Northern Rocky Mountains (NRM) of the United States. The proposed NRM DPS of the gray wolf encompasses the eastern one-third of Washington and Oregon, a small part of north-central Utah, and all of Montana, Idaho, and Wyoming.

We are also proposing to remove the gray wolf in the NRM DPS from the List of Endangered and Threatened Wildlife under the Act, because threats will have been reduced or eliminated if Wyoming adopts a State law and wolf management plan that we believe will adequately conserve wolves. The States of Montana and Idaho have adopted State laws and management plans that would conserve a recovered wolf population into the foreseeable future. However, Wyoming State law and its wolf management plan are not sufficient to conserve Wyoming's portion of a recovered NRM wolf population at this time. Therefore, if Wyoming fails to modify its management regime to adequately conserve wolves, we will keep a significant portion of the range in the Wyoming portion of the NRM DPS because there are not adequate regulatory mechanisms in that area. In this situation, wolves in the significant portion of the range in northwestern Wyoming, outside the National Parks, will retain their nonessential experimental status under section 10(j) of the Act. We will remove the remainder of the NRM DPS from the List of Endangered and Threatened Species. Any gray wolves in the remainder of Wyoming outside the National Parks and those portions of Washington, Oregon, and Utah in the NRM DPS, are not essential to conserving the NRM wolf population and these areas do not constitute a significant portion of the range in the DPS. Therefore these areas will not remain listed. We are also soliciting comments regarding our intention to use section 6 agreements to allow States outside the NRM DPS with Service-approved wolf management plans to assume management of listed wolves, including nonlethal and lethal control of problem wolves.

DATES: We request that comments on this proposal be submitted by the close of business on April 9, 2007. We will hold six public hearings on this proposed rule scheduled between February 27 and March 8, 2007. In addition, we have scheduled six open houses that will precede the public hearings at each location (see **ADDRESSES** section for locations). Requests for additional public hearings must be received by us on or before March 26, 2007.

ADDRESSES: If you wish to comment, you may submit comments and materials concerning this proposal, identified by ''RIN number 1018–AU53,'' by any of the following methods:

1. Federal e-Rulemaking Portal—*http://www.regulations.gov*. Follow the instructions for submitting comments.

2. E-mail—*WesternGrayWolf@fws.gov*. Include ''RIN number 1018–AU53'' in the subject line of the message.

3. Fax—(406) 449–5339.

4. Mail—U.S. Fish and Wildlife Service, Western Gray Wolf Recovery Coordinator, 585 Shepard Way, Helena, Montana 59601.

5. Hand Delivery/Courier—U.S. Fish and Wildlife Service, Western Gray Wolf Recovery Coordinator, 585 Shepard Way, Helena, MT 59601.

Comments and materials received, as well as supporting documentation used in preparation of this proposed action, will be available for inspection following the close of the comment period, by appointment, during normal business hours, at our Helena office (see **ADDRESSES**).

Public Hearings

Six open houses, from 3 p.m. to 5 p.m. (brief presentations about the proposed rule will be given at both 3 p.m. and 4 p.m.) and six public hearings, from 6 p.m. to 8 p.m., will be held on:

February 27, 2007, Tuesday at Holiday Inn Cheyenne, 204 West Fox Farm Road, Cheyenne, WY.

February 28, 2007, Wednesday at Plaza Hotel, 122 West South Temple, Salt Lake City, UT.

March 1, 2007, Thursday at Jorgenson's Inn & Suites, 1714 11th Avenue, Helena, MT.

March 6, 2007, Tuesday at Boise Convention Center on the Grove, 850 Front Street, Boise, ID.

March 7, 2007, Wednesday at Pendleton Red Lion Inn, 304 S.E. Nye Street, Pendleton, OR.

March 8, 2007, Thursday at Oxford Inns & Suites, 15015 East Indiana Avenue, Spokane Valley, WA.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Speakers can only sign up at the open houses and hearing. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us. If you have any questions concerning the public hearings, please contact Sharon Rose 303–236–4580. Persons needing reasonable accommodations in order to attend and participate in the public hearings in Boise, ID; Pendleton, OR; or Spokane, WA, should contact Joan Jewett 503–231–6211 and for hearings in Cheyenne, WY; Salt Lake City, UT; or Helena, MT, please contact Sharon Rose at 303/236–4580 as soon as possible in order to allow sufficient time to process requests. Please call no later than one week before the hearing date. Information regarding the proposal is available in alternative formats upon request.

FOR FURTHER INFORMATION CONTACT: Edward E. Bangs, Western Gray Wolf Recovery Coordinator, U.S. Fish and Wildlife Service, at our Helena office (see **ADDRESSES**) or telephone (406) 449–5225, extension 204.

SUPPLEMENTARY INFORMATION:

Background

Gray wolves (*Canis lupus*) are the largest wild members of the dog family (Canidae). Adult gray wolves range from 18–80 kilograms (kg) (40–175 pounds (lb)) depending upon sex and region (Mech 1974, p. 1). In the NRM, adult male gray wolves average over 45 kg (100 lb), but may weigh up to 60 kg (130 lb). Females weigh slightly less than males. Wolves' fur color is frequently a grizzled gray, but it can vary from pure white to coal black (Gipson *et al.* 2002, p. 821).

Gray wolves have a circumpolar range including North America, Europe and Asia. As Europeans began settling the United States, they poisoned, trapped, and shot wolves, causing this once-widespread species to be eradicated from most of its range in the 48 conterminous States (Mech 1970, pp.

31–34; McIntyre 1995, pp. 1–461). Gray wolf populations were eliminated from Montana, Idaho, and Wyoming, as well as adjacent southwestern Canada by the 1930s (Young and Goldman 1944, p. 414).

Wolves primarily prey on medium and large mammals. Wolves have a social structure, normally living in packs of 2 to 12 animals. In the NRM, pack sizes average about 10 wolves in protected areas, but a few complex packs have been substantially bigger in some areas of Yellowstone National Park (YNP) (Smith *et al.* 2006, p. 243; Service *et al.* 2006, Tables 1–3). Packs typically occupy large distinct territories 518–1,295 square kilometers (km^2) (200–500 square miles (mi^2)) and defend these areas from other wolves or packs. Once a given area is occupied by resident wolf packs, it becomes saturated and wolf numbers become regulated by the amount of available prey, intraspecies conflict, other forms of mortality, and dispersal. Dispersing wolves may cover large areas as lone animals as they try to join other packs or attempt to form their own pack in unoccupied habitat. Dispersal distances in the NRM average about 97 kilometers (km) (60 miles (mi)), but dispersals over 805 km (500 mi) have been documented (Boyd 2006; Boyd and Pletscher 1999, p. 1102).

Typically, only the top-ranking (''alpha'') male and female in each pack breed and produce pups (Packard 2003, p. 38; Smith *et al.* 2006, pp. 243–4; Service *et al.* 2006, Tables 1–3). Females and males typically begin breeding as 2-year-olds and may annually produce young until they are over 10 years old. Litters are typically born in April and range from 1 to 11 pups, but average around 5 pups (Service *et al.* 1989–2006, Tables 1–3). Most years, four of these five pups survive until winter (Service *et al.* 1989–2006, Tables 1–3). Wolves can live 13 years (Holyan *et al.* 2005, p. 446) but the average lifespan in the NRM is less than 4 years (Smith *et al.* 2006, p. 245). Pup production and survival can increase when wolf density is lower and food availability per wolf increases (Fuller *et al.* 2003, p. 186). Breeding members also can be quickly replaced either from within or outside the pack (Packard 2003, p. 38; Brainerd 2006). Consequently, wolf populations can rapidly recover from severe disruptions, such as very high levels of human-caused mortality or disease. After severe declines, wolf populations can more than double in just 2 years if mortality is reduced; increases of nearly 100 percent per year have been documented in low-density suitable habitat (Fuller *et al.* 2003, pp. 181–183; Service *et al.* 2006, Table 4).

For detailed information on the biology of this species see the ''Biology and Ecology of Gray Wolves'' section of the April 1, 2003, final rule to reclassify and remove the gray wolf from the list of endangered and threatened wildlife in portions of the conterminous United States (2003 Reclassification Rule) (68 FR 15804).

Recovery

Recovery Planning and the Selection of Recovery Criteria—Shortly after listing we formed the interagency wolf recovery team to complete a recovery plan for the NRM population (Service 1980, p. i; Fritts *et al.* 1995, p. 111). The NRM Wolf Recovery Plan (Rocky Mountain Plan) was approved in 1980 (Service 1980, p. i) and revised in 1987 (Service 1987, p. i). Recovery plans are not regulatory documents and are instead intended to provide guidance to the Service, States, and other partners on methods of minimizing threats to listed species and on criteria that may be used to determine when recovery is achieved. Overall, recovery of a species is a dynamic process requiring adaptive management and judging the degree of recovery of a species is also an adaptive management process.

The Rocky Mountain Plan (Service 1987, p. 57) specifies a recovery criterion of 10 breeding pairs of wolves (defined in 1987 as 2 wolves of opposite sex and adequate age, capable of producing offspring) for 3 consecutive years in each of 3 distinct recovery areas—(1) northwestern Montana (Glacier National Park; the Great Bear, Bob Marshall, and Lincoln Scapegoat Wilderness Areas; and adjacent public and private lands), (2) central Idaho (Selway-Bitterroot, Gospel Hump, Frank Church River of No Return, and Sawtooth Wilderness Areas; and adjacent, mostly Federal, lands), and (3) the YNP area (including the Absaroka-Beartooth, North Absaroka, Washakie, and Teton Wilderness Areas; and adjacent public and private lands). The Rocky Mountain Plan states that if 2 recovery areas maintain 10 breeding pairs for 3 successive years, gray wolves in the NRM can be reclassified to threatened status and if all 3 recovery areas maintain 10 breeding pairs for 3 successive years, the NRM wolf population can be considered fully recovered and can be considered for delisting. The Plan also states that individual recovery areas meeting recovery objectives can be reclassified to threatened status and consideration can be given to reclassifying such a population to threatened under similarity of appearance regulations after special regulations are established and a State management plan is in place for that population (Service 1987, pp. 19–20).

The 1994 environmental impact statement (EIS) reviewed wolf recovery in the NRM and the adequacy of the recovery goals (Service 1994, pp. 6:68–78). The EIS indicated that the 1987 recovery goal was, at best, a minimum recovery goal, and that modifications were warranted on the basis of more recent information about wolf distribution, connectivity, and numbers. This review concluded that, at a minimum, the recovery goal should be, ''Thirty or more breeding pairs (*i.e.*, an adult male and an adult female wolf that have produced at least 2 pups that survived until December 31 of the year of their birth, during the previous breeding season) comprising some 300+ wolves in a metapopulation (a population that exists as partially isolated sets of subpopulations) with genetic exchange between subpopulations should have a high probability of long-term persistence'' (Service 1994, pp. 6:75). We believe that a metapopulation of this size and distribution among the three areas of core suitable habitat in the NRM DPS would result in a wolf population that is representative, resilient, and redundant and would fully achieve our recovery objectives.

We conducted another review of what constitutes a recovered wolf population in late 2001 and early 2002 (Bangs 2002). Based on the review, we adopted the 1994 EIS's more relevant and stringent definition of wolf population viability and recovery (Service 1994, p. 6:75) and began using entire States, in addition to recovery areas, to measure progress toward recovery goals (Service *et al.* 2002, Table 4). We have determined that an essential part of achieving recovery is a well-distributed number of wolf packs and individual wolves among the three States and the three recovery zones. While uniform distribution is not necessary, a well-distributed population with no one State maintaining a disproportionately low number of packs or number of individual wolves is needed.

Fostering Recovery—In 1982, a wolf pack from Canada began to occupy Glacier National Park along the United States-Canada border. In 1986, the first litter of pups documented in over 50 years was born in the Park (Ream *et al.* 1989, pp. 39–40). Also in 1986, a pack denned just east of the Park on the Blackfeet Reservation, but was not detected until 1987, when they began to depredate livestock (Bangs *et al.* 1995,

p. 131). The number of wolves resulting from this ''natural'' recovery in northwestern Montana steadily increased for the next decade (Service *et al.* 2006, Table 4).

In 1995 and 1996, we reintroduced wolves from southwestern Canada to remote public lands in central Idaho and YNP (Bangs and Fritts 1996, pp. 785–786; Fritts *et al.* 1997, p. 7; Bangs *et al.* 1998, pp. 407–9). These wolves were classified as nonessential experimental populations under section 10(j) of the Act to increase management flexibility and address local and State concerns (59 FR 60252 and 60266, November 22, 1994). This reintroduction and accompanying management programs greatly expanded the numbers and distribution of wolves in the NRM. Because of the reintroduction, wolves soon became established throughout central Idaho and the Greater Yellowstone Area (GYA) (Bangs *et al.* 1998, pp. 787–789; Service *et al.* 2006, Table 4).

Monitoring and Managing Recovery—By 1989, we formed an Interagency Wolf Working Group (Working Group), composed of Federal, State, and Tribal agency personnel (Bangs 1991, p. 7; Fritts *et al.* 1995, p. 109; Service *et al.* 1989, p. 1). The Working Group, whose membership has evolved as wolf range has expanded, conducted four basic recovery tasks, in addition to the standard enforcement functions associated with the take of a listed species. These tasks were: (1) Monitor wolf distribution and numbers; (2) control wolves that attacked livestock by moving them, conducting other non-lethal measures, or by killing them; (3) conduct research on wolf relationships to ungulate prey, other carnivores and scavengers, livestock, and people; and (4) provide accurate science-based information to the public through reports and mass media so that people could develop their opinions about wolves and wolf management from an informed perspective (Service *et al.* 1989–2006, pp. 1–3).

The size and distribution of the wolf population is estimated by the Working Group each year and, along with other information, is published in interagency annual reports (Service *et al.* 1989–2006, Table 4). Since the early 1980s, the Service and our cooperating partners have radio-collared and monitored over 814 wolves in the NRM to assess population status, conduct research, and to reduce/resolve conflicts with livestock. The Working Group's annual population estimates represent the best scientific and commercial data available regarding year-end NRM gray wolf population size and trends, as well as distributional and other information.

Recovery by State—We measure wolf recovery by the number of breeding pairs because wolf populations are maintained by packs that successfully raise pups. We use ''breeding pairs'' to describe successfully reproducing packs (Service 1994, pp. 6:67; Bangs 2002). Breeding pairs are only measured in winter because most wolf mortality occurs in spring/summer/fall (illegal killing, agency control, and disease/parasites) and winter is the beginning of the annual courtship and breeding season for wolves. Often we do not know if a specific pack actually contains an adult male, adult female and two pups in winter, but there is a strong correlation between wolf pack size then and its probability of being classified as a breeding pair. The group size of packs of unknown composition in winter can be used to estimate their breeding pair status (Ausband 2006). Different habitat characteristics result in slightly different probabilities of breeding pair status in each State. However, regardless of which State, overall the probability of a pack of wolves having a 90 percent chance of being a breeding pair does not occur until there are at least nine wolves in a pack in winter (Ausband 2006). In the past we had primarily used packs of known composition in winter to estimate the number that meet our breeding pair recovery criteria. However, now we can use the best information currently available and use pack size in winter as a surrogate to reliably identify their contribution toward meeting our breeding pair recovery criteria and to better predict the effect of managing for certain pack sizes on wolf population recovery.

At the end of 2000, the NRM population first met its numerical and distributional recovery goal of a minimum of 30 ''breeding pairs'' (an adult male and an adult female wolf that have produced at least 2 pups that survived until December 31 of the year of their birth, during the previous breeding season) and over 300 wolves well-distributed among Montana, Idaho, and Wyoming (68 FR 15804, April 1, 2003; Service *et al.* 2001, Table 4). This minimum recovery goal was again exceeded in 2001, 2002, 2003, 2004, 2005, and 2006 (Service *et al.* 2002–2006, Table 4). Because the recovery goal must be achieved for 3 consecutive years, the temporal element of recovery was not achieved until the end of 2002 (Service *et al.* 2003, Table 4). By the end of 2006, the NRM wolf population had achieved its numerical and distributional recovery goal for 7 consecutive years (Service *et al.* 2001–2006, Table 4; 68 FR 15804, April 1, 2003; 71 FR 6634, February 8, 2006).

In 2000, 8 breeding pairs and approximately 97 wolves were known to occur in Montana; 12 breeding pairs and approximately 153 wolves were known to occur in Wyoming; and 10 breeding pairs and 187 wolves were known to occur in Idaho (Service *et al.* 2001, Table 4). In 2001, 7 breeding pairs and approximately 123 wolves were known to occur in Montana; 13 breeding pairs and approximately 189 wolves were known to occur in Wyoming; and 14 breeding pairs and 251 wolves were known to occur in Idaho (Service *et al.* 2002, Table 4). In 2002, 17 breeding pairs and approximately 183 wolves were known to occur in Montana; 18 breeding pairs and approximately 217 wolves were known to occur in Wyoming; and 14 breeding pairs and 216 wolves were known to occur in Idaho (Service *et al.* 2003, Table 4). In 2003, 10 breeding pairs and approximately 182 wolves were known to occur in Montana; 16 breeding pairs and approximately 234 wolves were known to occur in Wyoming; and 25 breeding pairs and 345 wolves were known to occur in Idaho (Service *et al.* 2004, Table 4). In 2004, 15 breeding pairs and approximately 153 wolves were known to occur in Montana; 24 breeding pairs and approximately 260 wolves were known to occur in Wyoming; and 27 breeding pairs and 422 wolves were known to occur in Idaho (Service *et al.* 2005, Table 4). In 2005, 19 breeding pairs and approximately 256 wolves were known to occur in Montana; 16 breeding pairs and approximately 252 wolves were known to occur in Wyoming; and 36 breeding pairs and 512 wolves were known to occur in Idaho, for a total of 71 breeding pairs and 1,020 wolves (Service *et al.* 2006, Table 4). In late 2006, preliminary estimates indicate there are 283 wolves in at least 22 breeding pairs in Montana (C. Sime, MFWP, pers. comm.), at least 650 wolves in about 42 breeding pairs in Idaho (S. Nadeau, IDFG, pers. comm.), and 310 wolves in 25 breeding pairs in Wyoming (M. Jimenez, Service, and D. Smith, NPS, pers. comm.) combining to at least 1,243 wolves in over 89 breeding pairs in the NRM wolf population. The NRM wolf population increased an average of 26 percent annually from 1995–2005 (Service *et al.* 2006, Table 4). Figure 1 illustrates wolf population trends by State from 1979 to 2005.

BILLING CODE 4310–55–P

Figure 1. Northern Rocky Mountain Wolf Population Trends 1979-2005, by State

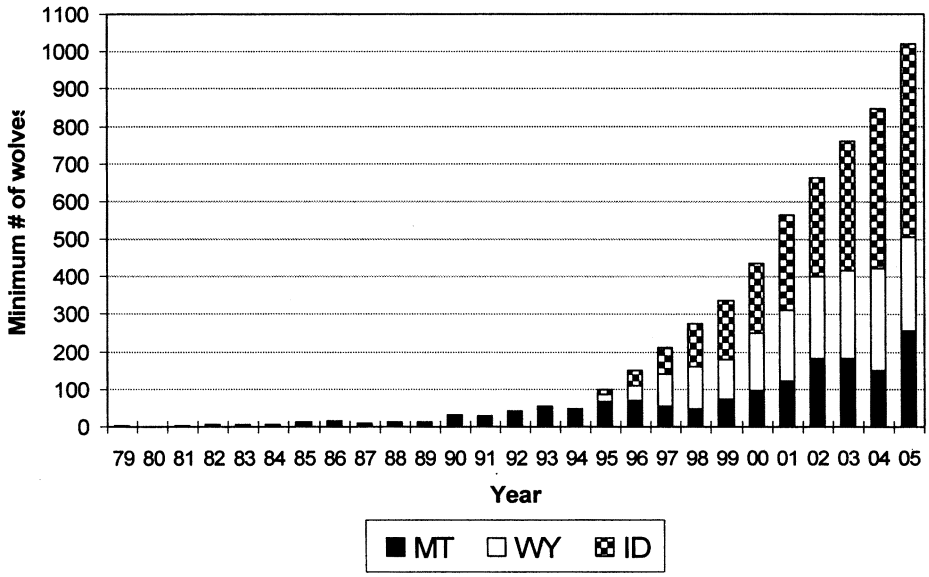

Figure 1: **Northern Rocky Mountain wolf population estimates by State, as calculated and reported in the interagency annual wolf status reports (Service et al. 1989-2006).**

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The following section discusses recovery within each of the three major recovery areas. Because the recovery areas cross State lines, the population estimates may sum differently.

Recovery in the Northwestern Montana Recovery Area—The Northwestern Montana Recovery Area (>49,728 km² (>19,200 mi²)) includes Glacier National Park; the Great Bear, Bob Marshall, and Lincoln Scapegoat Wilderness Areas; and adjacent public and private lands in northern Montana and the northern Idaho panhandle. Reproduction first occurred in northwestern Montana in 1986. The natural ability of wolves to find and quickly recolonize empty habitat, the interim control plan, and the interagency recovery program combined to effectively promote an increase in wolf numbers. By 1996, the number of wolves had grown to about 70 wolves in 7 known breeding pairs. However, since 1997, the number of breeding groups and number of wolves has fluctuated widely, varying from 4–12 breeding pairs and from 49–130 wolves (Service *et al.* 2006, Table 4). Our 1998 estimate was a minimum of 49 wolves in 5 known breeding pairs (Service *et al.* 1999, Table 4). In 1999, and again in 2000, 6 known breeding pairs produced pups, and the northwestern Montana population increased to about 63 wolves (Service *et al.* 2000, 2001, Table 4). In 2001, we estimated that 84 wolves in 7 known breeding pairs occurred; in 2002, there were an estimated 108 wolves in 12 known breeding pairs; in 2003, there were an estimated 92 wolves in 4 known breeding pairs; in 2004, there were an estimated 59 wolves in 6 known breeding pairs; and in 2005, there were an estimated 130 wolves in 11 known breeding pairs (Service *et al.* 2002–2006, Table 4) (See Figure 1). In 2006, preliminary estimates indicate there are about 149 wolves in at least 12 breeding pairs in northwestern Montana (C. Sime, MFWP, pers. comm.) and for the first time about 10 wolves in two packs (1 breeding pair) were documented in the endangered area of the Idaho Panhandle (S. Nadeau, IDFG, pers. comm.).

The Northwestern Montana Recovery Area has sustained fewer wolves than the other recovery areas because there is less suitable habitat. Wolf packs in this area may be near their local social and biological carrying capacity. Some of the variation in our wolf population estimates for northwestern Montana is due to the difficulty of counting wolves in the areas' thick forests. Wolves in northwestern Montana prey mainly on white-tailed deer (*Odocoileus virginianus*) and pack size is smaller, which also makes packs more difficult to detect (Bangs *et al.* 1998, p. 878). Increased monitoring efforts in northwestern Montana by Montana Fish, Wildlife and Parks (MFWP) in 2005 were likely responsible for some of the sharp increase in the estimated wolf population. MFWP has led wolf management in this area since February 2004. It appears that wolf numbers in northwestern Montana are likely to fluctuate around 100 wolves. Since 2001, this area has maintained an average of nearly 96 wolves and about 8 known breeding pairs (Service *et al.* 2006, Table 4).

Northwestern Montana's wolves are demographically and genetically linked to both the wolf population in Canada and in central Idaho (Pletscher *et al.* 1991, pp. 547–8; Boyd and Pletscher 1999, pp. 1105–1106). Wolf dispersal into northwestern Montana from both directions will continue to supplement this segment of the overall wolf population, both demographically and genetically (Boyd 2006; Forbes and Boyd 1996, p. 1082; Forbes and Boyd 1997, p. 1226; Boyd *et al.* 1995, p. 140).

Wolf conflicts with livestock have fluctuated with wolf population size and prey population density (Service *et al.* 2005, Table 5). For example, in 1997, immediately following a severe winter that reduced white-tailed deer populations in northwestern Montana, wolf conflicts with livestock increased dramatically, and the wolf population

declined (Bangs *et al.* 1998, p. 878). Wolf numbers increased as wild prey numbers rebounded. Unlike YNP or the central Idaho Wilderness, northwestern Montana lacks a large core refugium that contains large numbers of overwintering wild ungulates. Therefore, wolf numbers are not ever likely to be as high in northwestern Montana as they are in central Idaho or the GYA. However, the population has persisted for nearly 20 years and is robust today (Service *et al.* 2006, Table 4). State management, pursuant to the Montana State wolf management plan, will ensure this population continues to persist (see Factor D).

Recovery in the Central Idaho Recovery Area—The Central Idaho Recovery Area (53,600 km^2 [20,700 mi^2]) includes the Selway Bitterroot, Gospel Hump, Frank Church River of No Return, and Sawtooth Wilderness Areas; adjacent to mostly Federal lands in central Idaho; and adjacent parts of southwest Montana (Service 1994, p. iv). In January 1995, 15 young adult wolves were captured in Alberta, Canada, and released by the Service in central Idaho (Bangs and Fritts 1996, p. 409; Fritts *et al.* 1997, p. 7). In January 1996, an additional 20 wolves from British Columbia were released (Bangs *et al.* 1998, p. 787). Central Idaho contains the greatest amount of highly suitable wolf habitat compared to either northwestern Montana or the GYA (Oakleaf *et al.* 2006, p. 559). In 1998, the central Idaho wolf population consisted of a minimum of 114 wolves, including 10 known breeding pairs (Bangs *et al.* 1998, p. 789). By 1999, it had grown to about 141 wolves in 10 known breeding pairs (Service *et al.* 2000, Table 4). By 2000, this population had 192 wolves in 10 known breeding pairs, and by 2001, it had climbed to about 261 wolves in 14 known breeding pairs (Service *et al.* 2001, 2002, Table 4). In 2002, there were 284 wolves in 14 known breeding pairs; in 2003, there were 368 wolves in 26 known breeding pairs; in 2004, there were 452 wolves in 30 known breeding pairs and, by the end of 2005, there were 512 wolves in 36 known breeding pairs (Service *et al.* 2003–2006, Table 4). As in the Northwestern Montana Recovery Area, some of the Central Idaho Recovery Area's increase in its estimated wolf population in 2005 was due to an increased monitoring effort by the Idaho Department of Fish and Game (IDFG) (See Figure 1). In 2006, we estimated there were 713 wolves in at least 46 breeding pairs in central Idaho (S. Nadeau, IDFG, C. Sime, MFWP, pers. comm.).

Recovery in the Greater Yellowstone Area—The GYA recovery area (63,700 km^2 [24,600 mi^2]) includes YNP; the Absaroka Beartooth, North Absaroka, Washakie, and Teton Wilderness Areas (the National Park/Wilderness units); and adjacent public and private lands in Wyoming; and adjacent parts of Idaho and Montana (Service 1994, p. iv). The wilderness portions of the GYA are rarely used by wolves due to high elevation, deep snow, and low productivity in terms of sustaining year-round wild ungulate populations (Service *et al.* 2006, Figure 3). In 1995, 14 wolves from Alberta, representing 3 family groups, were released in YNP (Bangs and Fritts 1996, p. 409; Fritts *et al.* 1997, p. 7; Phillips and Smith 1996, pp. 33–43). Two of the three groups produced young in late April. In 1996, this procedure was repeated with 17 wolves from British Columbia, representing 4 family groups. Two of the groups produced pups in late April. Finally, 10 5-month old pups removed from northwestern Montana were released in YNP in the spring of 1997 (Bangs *et al.* 1998, p. 787).

By 1998, the wolves had expanded from YNP into the GYA with a population that consisted of 112 wolves, including 6 breeding pairs that produced 10 litters of pups (Service *et al.* 1999, Table 4). The 1999 population consisted of 118 wolves, including 8 known breeding pairs (Service *et al.* 2000, Table 4). In 2000, the GYA had 177 wolves, including 14 known breeding pairs, and there were 218 wolves, including 13 known breeding pairs, in 2001 (Service *et al.* 2001, 2002, Table 4). In 2002, there were an estimated 271 wolves in 23 known breeding pairs; in 2003, there were an estimated 301 wolves in 21 known breeding pairs; in 2004, there were an estimated 335 wolves in 30 known breeding pairs; and in 2005, there were an estimated 325 wolves in 20 known breeding pairs (Service *et al.* 2003–2006, Table 4) (See Figure 1). In 2006, we estimated there were 371 wolves in at least 30 breeding pairs in the GYA (D. Smith, NPS, M. Jimenez, Service, C. Sime, MFWP, pers. comm.).

Wolf numbers in the GYA were stable in 2005, but known breeding pairs dropped by 30 percent to only 20 pairs (Service *et al.* 2006, Table 4). The population recovered somewhat in 2006, primarily because wolves outside YNP in WY grew to about 174 wolves in 15 breeding pairs (M. Jimenez, pers. comm.). Most of this decline occurred in YNP (which declined from 171 wolves in 16 known breeding pairs in 2004, to 118 wolves in 7 breeding pairs in 2005 (Service *et al.* 2005, 2006, Table 4) and likely occurred because: (1) Highly suitable habitat in YNP is saturated with wolf packs; (2) conflict among packs appears to be limiting population density; (3) there are fewer elk (Cervus canadensis) than when reintroduction took place (White and Garrott 2006, p. 942; Vucetich *et al.* 2005, p. 259); and (4) a suspected, but as yet unconfirmed, outbreak of disease, canine parvovirus (CPV) or canine distemper, reduced pup survival to 20 percent in 2005 (Service *et al.* 2006, Table 2; Smith *et al.* 2006, p. 244). Additional significant growth in the National Park/Wilderness portions of the Wyoming wolf population is unlikely because suitable wolf habitat is saturated with resident wolf packs. In 2006, we estimated there were about 136 wolves in 10 breeding pairs in YNP (D. Smith, NPS, pers. comm.). Maintaining wolf populations above recovery levels in the GYA segment of the NRM area will likely depend on wolf packs living outside the National Park/Wilderness portions of Wyoming.

For detailed information on the history of NRM wolf recovery, recovery planning (including defining appropriate recovery criteria), population monitoring (through the end of 2005), and cooperation and coordination with our partners in achieving recovery, see the ''Recovery'' section of the August 1, 2006, 12-month finding on a petition to establish and delist the NRM gray wolf population (including population estimates through the end of 2005) (71 FR 43411–43413).

Previous Federal Action

In 1974, four subspecies of gray wolf were listed as endangered including the NRM gray wolf (*Canis lupus irremotus*); the eastern timber wolf (*C. l. lycaon*) in the northern Great Lakes region; the Mexican wolf (*C. l. baileyi*) in Mexico and the southwestern United States; and the Texas gray wolf (*C. l. monstrabilis*) of Texas and Mexico (39 FR 1171, January 4, 1974). In 1978, we published a rule (43 FR 9607, March 9, 1978) relisting the gray wolf as endangered at the species level (*C. lupus*) throughout the conterminous 48 States and Mexico, except for Minnesota, where the gray wolf was reclassified to threatened. At that time, critical habitat was designated in Minnesota and Isle Royale, Michigan.

On November 22, 1994, we designated unoccupied portions of Idaho, Montana, and Wyoming as two nonessential experimental population areas for the gray wolf under section 10(j) of the Act. The Yellowstone Experimental Population Area consists of that portion of Idaho east of Interstate 15; that portion of Montana that is east of Interstate 15 and south of the Missouri River from Great Falls, Montana, to the eastern Montana border; and all of

Wyoming (59 FR 60252, November 22, 1994). The Central Idaho Experimental Population Area consists of that portion of Idaho that is south of Interstate 90 and west of Interstate 15; and that portion of Montana south of Interstate 90, west of Interstate 15 and south of Highway 12 west of Missoula (59 FR 60266, November 22, 1994). This designation assisted us in initiating gray wolf reintroduction projects in central Idaho and the GYA (59 FR 60252, November 22, 1994). On January 6, 2005, we revised the regulations under section 10(j) and liberalized management options for problem wolves (70 FR 1286). We also encouraged State and Tribal leadership in wolf management in the nonessential experimental population areas (70 FR 1286, January 6, 2005) where States and Tribes had Service-approved wolf management plans.

The wolf population in the NRM achieved its numerical and distributional recovery goals at the end of 2000 (Service *et al.* 2001, Table 4). The temporal portion of the recovery goal was achieved at the end of 2002 (Service *et al.* 2001–2003, Table 4). Prior to delisting, the Service required that Idaho, Montana, and Wyoming develop wolf management plans to provide assurances that adequate regulatory mechanisms would exist should the Act's federal protections be removed. The Service determined that Montana and Idaho's laws and wolf management plans were adequate to assure the Service that their share of the NRM wolf population would be maintained above recovery levels and approved those two State plans. However, we determined that problems with the Wyoming legislation and plan, and inconsistencies between the law and management plan did not allow us to approve Wyoming's approach to wolf management (Williams 2004). In response, Wyoming litigated this issue (Wyoming U.S. District Court 04–CV–0123–J and 04–CV–0253–J consolidated). The Wyoming Federal District Court dismissed the case on procedural grounds (360 F. Supp 2nd 1214 March 18, 2005). Wyoming appealed that decision but the Tenth Circuit Court of Appeals agreed with the District Court decision on April 3, 2006 (442 F. 3rd 1262).

On October 30, 2001, we received a petition from the Friends of the Northern Yellowstone Elk Herd, Inc., that sought removal of the NRM gray wolf from endangered status under the Act (Knuchel 2001). On July 19, 2005, we received a petition dated July 13, 2005, from the Office of the Governor, State of Wyoming and the Wyoming Game and Fish Commission to revise the listing status for the gray wolf by establishing the NRM DPS and to remove the gray wolf in the NRM DPS from the Federal List of Endangered and Threatened Species (Freudenthal 2005). On October 26, 2005, we published a 90-day finding that considered the collective weight of evidence and initiated a 12-month status review (70 FR 61770, October 26, 2005). On August 1, 2006, we announced a 12-month finding that the petitioned action (delisting in all of Montana, Idaho, and Wyoming) was not warranted because Wyoming State law and its wolf management plan did not provide the necessary regulatory mechanisms to ensure that Wyoming's numerical and distributional share of a recovered NRM wolf population would be conserved (71 FR 43410, August 1, 2006).

On February 8, 2006, we published an Advanced Notice of Proposed Rulemaking (ANPR) announcing our intention to conduct a rulemaking to establish a DPS of the gray wolf in the NRM and to remove this DPS from the List of Endangered and Threatened Species, if Wyoming adopts a State law and a State wolf management plan that is approved by the Service (71 FR 6634).

For detailed information on previous Federal actions see the ANPR (71 FR 6634, February 8, 2006) and the 2003 Reclassification Rule (68 FR 15804, April 1, 2003).

Distinct Vertebrate Population Segment Policy Overview

Pursuant to the Act, we consider for listing any species, subspecies, or, for vertebrates, any DPS of these taxa if there is sufficient information to indicate that such an action may be warranted. To interpret and implement the DPS provision of the Act and congressional guidance, the Service and the National Marine Fisheries Service (NMFS) published, on December 21, 1994, a draft Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Act and invited public comments on it (59 FR 65884–65885). After review of comments and further consideration, the Service and NMFS adopted the interagency policy as issued in draft form, and published it in the **Federal Register** on February 7, 1996 (61 FR 4722–4725). This policy addresses the recognition of a DPS for potential listing, reclassification, and delisting actions.

Discreteness and Significance of the Proposed DPS

Under our DPS policy, three factors are considered in a decision regarding the establishment and classification of a possible DPS. These are applied similarly for additions to the list of endangered and threatened species, reclassification of already listed species, and removals from the list. The first two factors—discreteness of the population segment in relation to the remainder of the taxon; and the significance of the population segment to the taxon to which it belongs—bear on whether the population segment is a valid DPS. If a population meets both tests, it is a DPS and then the third factor is applied—the population segment's conservation status is evaluated in relation to the Act's standards for listing, delisting, or reclassification (i.e., is the DPS endangered or threatened).

Analysis for Discreteness

Under our Policy Regarding the Recognition of Distinct Vertebrate Population Segments, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions—(1) is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

Defining the Boundaries of the Proposed NRM DPS

Our DPS policy allows for artificial or manmade boundary such as a road or highway to be used as a boundary of convenience in order to clearly identify the geographic area included within a DPS designation. The boundaries of the proposed NRM DPS include all of Montana, Idaho, and Wyoming, the eastern third of Washington and Oregon, and a small part of north central Utah. Specifically, the DPS includes that portion of Washington east of Highway 97 and Highway 17 north of Mesa and that portion of Washington east of Highway 395 south of Mesa. It includes that portion of Oregon east of Highway 395 and Highway 78 north of Burns Junction and that portion of Oregon east of Highway 95 south of Burns Junction. Finally, the DPS includes that portion of Utah east of Highway 84 and north of Highway 80. The center of these roads will be deemed the border of the DPS (see Figure 2).

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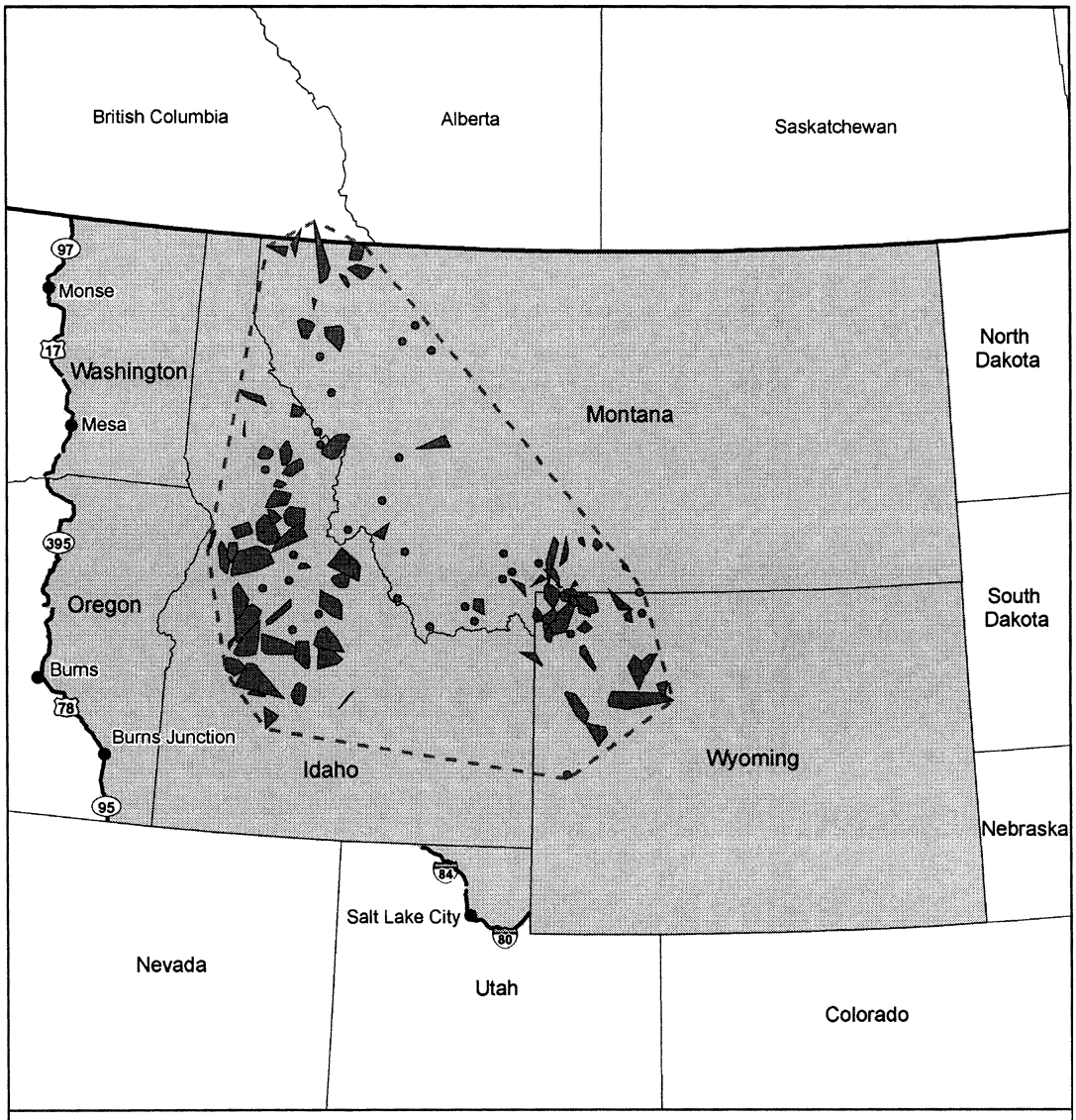

Figure 2: Proposed Distinct Population Segment area, including all currently occupied gray wolf habitat.

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One factor we considered in defining the boundaries of the proposed NRM DPS was the documented current distribution of all known wolf pack locations in 2004 (Service *et al.* 2005, Figure 1). We also viewed the annual distribution of wolf packs back to 2002; *i.e.*, the first year the population exceeded the recovery goal through 2005 (Service *et al.* 2002–2006, Figure 1; Bangs *et al.* in press b). Our estimate of the overall area occupied by wolf packs in the NRM would not have substantially changed our conclusions had we included other years of data, so we used the 2004 data that had already been analyzed in the February 8, 2006 ANPR. All known wolf packs in recent history have only been located in Montana, Idaho, and Wyoming. Only occasional lone dispersing wolves from the NRM population have been documented beyond those three States, in eastern Washington, eastern Oregon, northern Utah, central Colorado, and South Dakota (Boyd 2006).

Dispersal distances played a key role in determining how far to extend the DPS. We examined the known dispersal distance of over 200 marked dispersing wolves from the NRM, primarily using radio-telemetry locations and recoveries of the carcasses of marked wolves from the 1980s until the present time (Boyd and Pletscher 1999, p. 1097; Boyd

2006). These data indicate the average dispersal distance of wolves from the NRM for the last 10 years was about 97 km (60 mi) (Boyd 2006). We determined that 180 mi (290 km), three times the average dispersal distance, was a break-point in our data for unusually long-distance dispersal out from existing wolf pack territories. Only 8 wolves (none of which subsequently bred) have dispersed farther and remained in the United States. No wolf traveling that far has ever come back to the core population in Montana, Idaho, or Wyoming. Only dispersal from the NRM packs to areas within the United States was considered in these calculations because we were trying to determine the appropriate DPS boundaries within the United States. Dispersers to Canada were irrelevant because the Canadian border is to form the northern edge of the DPS. Thus, we plotted the average dispersal distance and three times the average dispersal distance out from existing wolf pack territories. The resulting map indicated a wide-band of likely wolf dispersal that might be frequent enough to result in additional pack establishment from the core wolf population given the availability of nearby suitable habitat. Our specific data on wolf dispersal in the NRM may not be applicable to other areas of North America (Mech and Boitani 2003, p. 13–16).

We also examined suitable wolf habitat in Montana, Idaho, and Wyoming (Oakleaf *et al.* 2006, pp. 555–558) and throughout the western United States (Carroll *et al.* 2003, p. 538, 2006, pp. 27–30) by comparing the biological and physical characteristics of areas currently occupied by wolf packs with the characteristics of adjacent areas that remain unoccupied by wolf packs. The basic findings and predictions of those models (Oakleaf *et al.* 2006, p. 559; Carroll *et al.* 2003, p. 541; Carroll *et al.* 2006, p. 32) were similar in many respects. Suitable wolf habitat in the NRM DPS is typically characterized by public land, mountainous forested habitat, abundant year-round wild ungulate populations, lower road density, lower numbers of domestic livestock that were only present seasonally, few domestic sheep (*Ovis* sp.), low agricultural use, and low human populations (see Factor A below under Summary of Factors Affecting the Species). The models indicate a large block of suitable wolf habitat exists in central Idaho and the GYA, and to a lesser extent in northwestern Montana. These findings support the recommendations of the 1987 wolf recovery plan (Service 1987) that identified those three areas as the most likely locations to support a recovered wolf population. The models indicate there is little suitable habitat within the portion of the NRM DPS in Washington, Oregon, or Utah (see Factor A).

Unsuitable habitat also is important in determining the boundaries of our DPS. Model predictions by Oakleaf *et al.* (2006, p. 559) and Carroll *et al.* (2003, pp. 540–541, 2006, p. 27) and our observations during the past 20 years (Bangs *et al.* 2004, p. 93; Service *et al.* 2006, Figures 1–4, Table 4) indicate that non-forested rangeland and croplands associated with intensive agricultural use (prairie and high desert) preclude wolf pack establishment and persistence. This unsuitability is due to chronic conflict with livestock and pets, local cultural intolerance of large predators, and wolf behavioral characteristics that make them extremely vulnerable to human-caused mortality in open landscapes (see Factor A). We looked at the distribution of large expanses of unsuitable habitat that would form a 'barrier' or natural boundary separating the current population from both the southwestern and midwestern wolf populations and from the core of any other possible wolf population that might develop in the foreseeable future in the northwestern United States.

Within the NRM DPS, we included the eastern parts of Washington and Oregon and a small portion of north central Utah, because—(1) these areas are within a 97- to 290-km (60- to 180-mi) band from the core wolf population where dispersal is likely; (2) lone dispersing wolves have been found in these areas in recent times (Boyd 2006); (3) these areas contain some suitable habitat (see Factor A for a more in-depth discussion of suitable habitat); and (4) the potential for connectivity exists between the relatively small and fragmented habitat patches in these areas and the large blocks of suitable habitat in the NRM DPS. If wolf packs do establish in these areas, they would likely be more connected to the core populations in central Idaho and northwestern Wyoming than to any future wolf populations that might become established in other large blocks of suitable habitat outside the NRM DPS. As noted earlier, large swaths of unsuitable habitat would isolate these populations from other suitable habitat patches to the west or south.

Although we have received reports of individual and wolf family units in the North Cascades of Washington (Almack and Fitkin 1998, pp. 7–13), agency efforts to confirm them were unsuccessful and to date no individual wolves or packs have ever been confirmed there (Boyd and Pletscher 1999, p. 1096; Boyd 2006). Intervening unsuitable habitat makes it highly unlikely that wolves from the NRM population have dispersed to the North Cascades of Washington in recent history. However, if the wolf were to be delisted in the NRM DPS, it would remain protected by the Act as endangered outside the DPS.

We propose to include all of Wyoming, Montana, and Idaho in the NRM DPS because (1) their State regulatory frameworks apply State-wide; and (2) expanding the proposed DPS beyond a 97- to 290-km (60- to 180-mi) band of likely dispersal to include the entire State adds only unsuitable habitat. Although including all of Wyoming in the NRM DPS results in including portions of the Sierra Madre, the Snowy, and the Laramie Ranges, we do not consider these areas to be suitable wolf habitat. Oakleaf *et al.* (2006, pp. 558–559; Oakleaf 2006) chose not to analyze these areas of southeast Wyoming because they are fairly intensively used by livestock and are surrounded with, and interspersed by, private land, making pack establishment unlikely. While Carroll *et al.* (2003, p. 541; 2006, p. 32) optimistically predicted these areas were suitable habitat, the model predicted that under current conditions these areas were largely sink habitat and that by 2025 (within the foreseeable future) they were likely to be ranked as low occupancy because of human population growth and road development. We chose not to extend the NRM DPS border beyond eastern Montana and Wyoming, although those adjacent portions of North Dakota and South Dakota only contain unsuitable habitat.

Given the available information on potentially suitable habitat, expansion of the DPS to include Colorado or larger portions of Utah would have required significant expansion of the DPS south and west. Given current occupancy, and consideration of the significant portion of the range language in the Act's definition of threatened and endangered, we concluded that a smaller DPS centered around occupied suitable habitat was more appropriate.

Markedly Separated from Other Populations of the Taxon—The eastern edge of the proposed NRM DPS (see Figure 2) is about 644 km (400 mi) from the western edge of the area currently occupied by the Western Great Lakes wolf population (eastern Minnesota) and is separated from it by hundreds of miles of unsuitable habitat (See discussion of suitable habitat in Factor A). The southern edge of the NRM DPS

border is about 724 km (450 mi) from the nonessential experimental populations of wolves in the southwestern United States with vast amounts of unoccupied marginal or unsuitable habitat separating them. Although individual wolves have occasionally been sighted west of the DPS boundary (likely individuals dispersing from Idaho or Canada), no wolf packs are known to occur west of the proposed DPS. No wolves from other U.S. populations are known to have dispersed as far as the borders of the NRM DPS.

Although dispersal distance data for North America (Fritts 1983, pp. 166–167; Missouri Department of Conservation 2001, pp. 1–2; Ream *et al.* 1991, pp. 351–352; Boyd and Pletscher 1999, p. 1094; Boyd 2006) show that gray wolves can disperse over 805 km (500 mi) from existing wolf populations, the average dispersal of NRM wolves is about 97 km (60 mi). Only 8 of nearly 200 confirmed NRM wolf dispersal events from 1994 through 2004 have been over 290 km (180 mi) (Boyd 2006). Six of these eight confirmed United States long-distance dispersers remained within the proposed DPS. None of those long-distance wolves found mates nor survived long enough to breed in the United States (Boyd 2006).

Of the three wolves that dispersed into eastern Oregon, two died and one was relocated by the Service back to central Idaho. Of the two wolves that dispersed into eastern Washington, one died and the other moved north into Canada. A wolf that dispersed to northern Utah was incidentally captured by a coyote trapper and relocated back to Wyoming by the Service in late 2002. Another wolf that dispersed into the same area of northern Utah was incidentally killed in a coyote trap in 2006. The first wolf confirmed to have dispersed (within the United States) beyond the border of the proposed NRM DPS was killed by a vehicle collision along Interstate 70 in north-central Colorado in spring 2004. Although not confirmed, in early 2006, video footage of a black wolf-like canid was taken near Walden in northern Colorado, suggesting another possible dispersing wolf had traveled into Colorado. The subsequent status or location of that animal is unknown. Finally, in spring 2006, the carcass of a male black wolf was found along Interstate 90 in western South Dakota. Genetic testing confirmed it was a wolf that had dispersed from the Yellowstone area. We expect that occasional lone dispersing wolves will continue to disperse beyond the currently occupied wolf habitat area in Montana, Idaho, and Wyoming, as well as into States adjacent to the NRM DPS, but that pack development and persistence outside the proposed NRM DPS is highly unlikely in the foreseeable future.

No connectivity currently exists between the three United States gray wolf populations, nor are there any resident wolf packs in intervening areas. While it is theoretically possible that a lone wolf might transverse over 644 km (400 mi) from one population to the other, movement between these populations has never been documented and is extremely unlikely because of both the distance and the large gaps in suitable habitat between the populations. Furthermore, the DPS Policy does not require complete separation of one DPS from other populations, but instead requires ''marked separation.'' Thus, if occasional individual wolves or packs disperse among populations, the NRM DPS could still display the required discreteness. Based on the information presented above, we have determined that NRM gray wolves are markedly separated from all other gray wolves in the United States.

Management Differences Among the United States and Canadian Wolf Populations—The DPS Policy allows us to use international borders to delineate the boundaries of a DPS if there are differences in control of exploitation, conservation status, or regulatory mechanisms between the countries. Significant differences exist in management between U.S.-Canadian wolf populations. Therefore, we will continue to use the United States-Canada border to mark the northern boundary of the DPS due to the difference in control of exploitation, conservation status, and regulatory mechanisms between the two countries. About 52,000 to 60,000 wolves occur in Canada where suitable habitat is abundant (Boitani 2003, p. 322). Because of this abundance, protection and intensive management are not necessary to conserve the wolf in Canada. This contrasts with the situation in the United States, where, to date, intensive management has been necessary to recover the wolf. Wolves in Canada are not protected by Federal laws and are only minimally protected in most Canadian provinces (Pletscher *et al.* 1991, p. 546). If delisted, States in the NRM would carefully monitor and manage to retain populations at or above the recovery goal (see Factor D below).

Analysis for Significance

If we determine a population segment is discrete, we next consider available scientific evidence of its significance to the taxon to which it belongs. Our DPS policy states that this consideration may include, but is not limited to, the following: (1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; and/or (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics. Below we address Factors 1 and 2. Factors 3 and 4 do not apply to the proposed NRM DPS and thus are not included in our analysis for significance.

Unusual or Unique Ecological Setting—Within the range of holarctic wolves, the NRM has among the highest diversity of large predators occupying the same areas as a large variety of native ungulate prey species, resulting in complex ecological interaction between the ungulate prey, predator, and scavenger groups (Smith *et al.* 2003, p. 331). In the NRM DPS, gray wolves share habitats with black bears (*Ursus americanus*), grizzly bears (*U. arctos horribilis*), cougars (*Felis concolor*), lynx (*Lynx canadensis*), wolverine (*Gulo gulo*), coyotes (*Canis latrans*), badgers (*Taxidea taxus*), bobcats (*Felis rufus*), fisher (*Martes pennanti*), and marten (*Martes americana*). The unique and diverse assemblage of native prey include elk, mule deer (*Odocoileus hemionus*), white-tailed deer, moose (*Alces alces*), woodland caribou (*Rangifer caribou*), bighorn sheep (*Ovis canadensis*), mountain goats (*Oreamnos americanus*), pronghorn antelope (*Antilocapra americana*), bison (*Bison bison*) (only in the GYA), and beaver (*Castor canadensis*). This complexity leads to unique ecological cascades in some areas, such as in YNP (Smith *et al.* 2003, pp. 334–338; Robbins 2004, pp. 80–81; Campbell *et al.* 2006, pp. 747–753). For example, wolves appear to be changing elk behavior and elk relationships and competition with other ungulates and other predators (*e.g.*, cougars) that did not occur when wolves were absent. These complex interactions could be increasing streamside willow production and survival (Ripple and Beschta 2004, p. 755), which in turn can affect beaver and nesting by riparian birds (Nievelt 2001). This suspected pattern of wolf-

caused changes also may be occurring with scavengers, whereby wolf predation is providing a year-round source of food for a diverse variety of carrion feeders (Wilmers *et al.* 2003, p. 996). The wolf population in the NRM has significantly extended the range of the gray wolf in the continental United States into a much more diverse, ecologically complex, and unique assemblage of species than is found elsewhere within historical wolf habitat in the northern hemisphere, including Europe and Asia.

Significant Gap in the Range of the Taxon—Loss of the NRM wolf population would represent a significant gap in the holarctic range of the taxon. Wolves once lived throughout most of North America. Wolves have been extirpated from most of the southern portions of their North American range. The loss of the NRM wolf population would represent a significant gap in the species' holarctic range in that this loss would create a 15-degree latitudinal or over 1,600-km (1,000-mi) gap across the Rocky Mountains between the Mexican wolf and wolves in Canada. If this potential gap were realized, substantial cascading ecological impacts would occur in that area (Smith *et al.* 2003, pp. 334–338; Robbins 2004, pp. 80–81; Campbell *et al.* 2006, pp. 747–753).

Given the wolf's historic occupancy of the conterminous States and the portion of the historic range the conterminous States represent, recovery in the lower 48 States has long been viewed as important to the taxon (39 FR 1171, January 4, 1974; 43 FR 9607, March 9, 1978). The proposed NRM DPS is significant in achieving this objective, as it is 1 of only 3 populations of wolves in the lower 48 States and constitutes nearly 20 percent of all wolves in the lower 48 States.

We conclude, based on our analysis of the best available scientific information, that the NRM DPS is significant to the taxon in that NRM wolves exist in a unique ecological setting and their loss would represent a significant gap in the range of the taxon. Therefore, the NRM DPS meets the criterion of significance under our DPS policy.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for listing, reclassifying, and delisting species. The Act defines ''species'' to also include any subspecies or, for vertebrates, any DPS. Because the NRM gray wolf population is discrete and significant, as defined above, it warrants recognition as a DPS under the Act and our policy (61 FR 4722). Species may be listed as threatened or endangered if one or more of the five factors described in section 4(a)(1) of the Act threaten the continued existence of the species. A species may be delisted, according to 50 CFR 424.11(d), if the best scientific and commercial data available substantiate that the species is neither endangered nor threatened because of (1) extinction, (2) recovery, or (3) error in the original data used for classification of the species.

A recovered population is one that no longer meets the Act's definition of threatened or endangered. Determining whether a species is recovered requires consideration of the same five categories of threats specified in section 4(a)(1). This analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act's protections.

For the purposes of this proposed rule, we consider ''foreseeable future'' to be 30 years. We use 30 years because it is a reasonable timeframe for analysis of future potential threats as they relate to wolf biology. The average gray wolf breeds at 30 months of age and replaces itself in 3 years (Fuller *et al.* 2003, p. 175; Smith *et al.* 2006, pp. 244–245). We used 10 wolf generations (30 years) to represent a reasonable biological timeframe to determine if impacts could be significant. To the extent practical, we assessed all potential threats to the wolf population based upon that 30-year foreseeable timeframe.

A species is ''endangered'' for purposes of the Act if it is in danger of extinction throughout all or a ''significant portion of its range'' and is ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a ''significant portion of its range.'' The following describes how we interpret the terms ''range'' and ''significant'' as used in the phrase ''significant portion of its range,'' and explains the bases for our use of those terms in this rule.

''Range''

The word ''range'' in the phrase ''significant portion of its range'' refers to the range in which a species currently exists, not to the historical range of the species where it once existed. The context in which the phrase is used is crucial. Under the Act's definitions, a species is ''endangered'' only if it ''is in danger of extinction'' in the relevant portion of its range. The phrase ''is in danger'' denotes a present-tense condition of being at risk of a future, undesired event. To say that a species ''is in danger'' in an area that is currently unoccupied, such as unoccupied historical range, would be inconsistent with common usage. Thus, ''range'' must mean ''currently-occupied range,'' not ''historical range.'' This interpretation of ''range'' is further supported by the fact that section 4(a)(1)(A) of the Act requires us to consider the ''present'' or ''threatened'' (*i.e.*, future), rather than the past, ''destruction, modification, or curtailment'' of a species' habitat or range in determining whether a species is endangered or threatened.

However, the Ninth Circuit Court of Appeals appeared to conclude, without any analysis or explanation that the ''range'' referred to in the SPR phrase includes the historical range of the species. The court stated that a species ''can be *extinct* 'throughout * * * a significant portion of its range' if there are major geographical areas in which it is no longer viable but once was,'' and then faults the Secretary for not ''at least explain[ing] her conclusion that the area in which the species can no longer live is not a significant portion of its range.'' *Defenders of Wildlife* v. *Norton,* 258 F.3d 1136, 1145 (emphasis added). This would suggest that the range we must analyze in assessing endangerment includes unoccupied historical range—*i.e.*, the places where the species was once viable but no longer exists.

The statute does not support this interpretation. This interpretation is based on what appears to be an inadvertent misquote of the relevant statutory language. In addressing this issue, the Ninth Circuit states that the Secretary must determine whether a species is ''extinct throughout * * * a significant portion of its range.'' *Id.* If that were true, we would have to study the historical range. But that is not what the statute says, and the Ninth Circuit quotes the statute correctly elsewhere in its opinion. Under the Act, we are not to determine if a species is ''extinct throughout * * * a significant portion of its range,'' but are to determine if it ''is in danger of extinction throughout * * * a significant portion of its range.'' A species cannot presently be ''in danger of extinction'' in that portion of its range where it ''was once viable but no longer is''—if by the latter phrase the court meant lost historical habitat. In that portion of its range, the species has by definition ceased to exist. In such situations, it is not ''in danger of extinction''; it is extinct.

Although we must focus on the range in which the species currently exists, data about the species' historical range and how the species came to be extinct in that location may be relevant in understanding or predicting whether a species is ''in danger of extinction'' in its current range and therefore relevant to our 5 factor analysis. But the fact that it has ceased to exist in what may have been portions of its historical range does not necessarily mean that it is ''in danger of extinction'' in a significant portion of the range where it currently exists. For the purposes of this notice we consider the range of the gray wolf to be the entire geographic area delineated by the boundaries of the NRM DPS.

''Significant''

The Act does not clearly indicate what portion(s) of a species' range should be considered ''significant.'' Most dictionaries list several definitions of ''significant.'' For example, one standard dictionary defines ''significant'' as ''important,'' ''meaningful,'' ''a noticeably or measurably large amount,'' or ''suggestive'' (Merriam-Webster's Collegiate Dictionary 1088 10th ed. 2000). If it means a ''noticeably or measurably large amount,'' then we would have to focus on the size of the range in question, either in relation to the rest of the range or perhaps even in absolute terms. If it means ''important,'' then we would have to consider factors in addition to size in determining a portion of a species' range is ''significant.'' For example, would a key breeding ground of species be ''significant,'' even if it was only a small part of the species' entire range?

One district court interpreted the term to mean ''a noticeably or measurably large amount'' without analysis or any reference to other alternate meanings, including ''important'' or ''meaningful.'' *Defenders of Wildlife* v. *Norton,* 239 F. Supp. 2d 9, 19 (D.D.C. 2002). We consider the court's interpretation to be unpersuasive because the court did not explain why we could not employ another, equally plausible definition of ''significant.'' It is impossible to determine from the word itself, even when read in the context of the entire statute, which meaning of ''significant'' Congress intended. Moreover, even if it were clear which meaning was intended, ''significant'' would still require interpretation. For example, if it were meant to refer to size, what size would be ''significant'': 30 percent, 60 percent, 90 percent? Should the percentage be the same in every case or for each species? Moreover, what factors, if any, would be appropriate to consider in making a size determination? Is size all by itself ''significant,'' or does size only become ''significant'' when considered in combination with other factors? On the other hand, if ''significant'' were meant to refer to importance, what factors would need to be considered in deciding that a particular portion of a species' range is ''important'' enough to trigger the protections of the Act?

Where there is ambiguity in a statute, as with the meaning of ''significant,'' the agency charged with administering the statute, in this case the Service, has broad discretion to resolve the ambiguity and give meaning to the term. As the Supreme Court has stated:

> In *Chevron,* this Court held that ambiguities in statutes within an agency's jurisdiction to administer are delegations of authority to the agency to fill the statutory gap in reasonable fashion. Filling these gaps, the Court explained, involves difficult policy choices that agencies are better equipped to make than courts. If a statute is ambiguous, and if the implementing agency's construction is reasonable, *Chevron* requires a federal court to accept the agency's construction of the statute, even if the agency's reading differs from what the court believes is the best statutory interpretation.

Nat'l Cable & Telecomms. Ass'n v. *Brand X Internet Servs.,* 545 U.S. 967, 980 (2005) (internal citations omitted).

We have broad discretion in defining what portion of a species' range is ''significant.'' No ''bright line'' or ''predetermined'' percentage of historical range loss is considered ''significant'' in all cases, and we may consider factors other than simply the size of the range portion in defining what is ''significant.'' In light of the general ecosystems conservation purposes and findings in section 2 of the Act, out goal is to define ''significant'' in such a way as to insure the conservation of the species protected by the Act. In determining whether a range portion is significant, we consider the ecosystems on which the species that use that range depend as well as the values listed in the Act that would be impaired or lost if the species were to become extinct in that portion of the range or in the range as a whole.

However, our discretion in defining ''significant'' is not unlimited. The Ninth Circuit Court of Appeals, while acknowledging that we have ''a wide degree of discretion in delineating'' what portion of a range is ''significant,'' appeared to set outer limits of that discretion. *See Defenders of Wildlife* v. *Norton,* 258 F.3d 1136. On the one hand, it rejected what it called a quantitative approach to defining ''significant,'' where a ''bright line'' or ''predetermined'' percentage of historical range loss is considered ''significant'' in all cases. 258 F.3d. at 1143. As the court explained:

> First, it simply does not make sense to assume that the loss of a predetermined percentage of habitat or range would necessarily qualify a species for listing. A species with an exceptionally large historical range may continue to enjoy healthy population levels despite the loss of a substantial amount of suitable habitat. Similarly, a species with an exceptionally small historical range may quickly become endangered after the loss of even a very small percentage of habitat.

The Ninth Circuit concluded that what is ''significant'' must ''necessarily be determined on a case by case basis,'' and must take into account not just the size of the range but also the biological importance of the range to the species. 258 F.3d. at 1143. At the other end of the spectrum, the Ninth Circuit rejected what it called ''the faulty definition offered by us,'' a definition that holds that a portion of a species' range is ''significant'' only if the threats faced by the species in that area are so severe as to threaten the viability of the species as a whole. 258 F.3d. at 1143, 1146. It thus appears that within the two outer boundaries set by the Ninth Circuit, we have wide discretion to give the definitive interpretation of the word ''significant'' in the phrase ''significant portion of its range.''

Based on these principles, we consider the following factors in determining whether a portion of a range is ''significant''—quality, quantity, and distribution of habitat relative to the biological requirements of the species; the historical value of the habitat to the species; the frequency of use of the habitat; the uniqueness or importance of the habitat for other reasons, such as breeding, feeding, migration, wintering, or suitability for population expansion; genetic diversity; and other biological factors. We focus on portions of a species' range that are important to the conservation of the species, such as ''recovery units'' identified in approved Section 4 recovery plans; unique habitat or other ecological features that provide adaptive opportunities that are of conservation importance to the species; and ''core'' populations that generate additional individuals of a species that can, over time, replenish depleted populations or stocks at the periphery of the species' range. We do not apply the term ''significant'' to portions of the species' range that constitute less-productive peripheral habitat, artificially-created habitat, or areas

where wildlife species have established themselves in urban or suburban settings— such portions of the species' range are not ''significant,'' in our view, to the conservation of the species as required by the Act.

In order to finalize this rule as proposed, Wyoming would have to adopt a State law and wolf management plan that would adequately conserve a recovered wolf population into the foreseeable future in the significant portion of range outside the National Parks in northwestern Wyoming. If Wyoming takes these steps and provides the Service with a statute and wolf management plan that we approve and which contains the necessary adequate regulatory measures, it is our intent to reopen the public comment period with respect to this proposed rule in order to receive comments on the Wyoming statute and wolf management plan before we would issue a final rule.

However, if Wyoming has not taken these steps by the date that a final decision is to be made, we have carefully considered the requirements of the Act and the record before us and concluded that an alternative approach may be in order. Specifically, it would then be our intention instead to reclassify the portions of the DPS in the States of Idaho and Montana, Washington, Oregon, and Utah as ''not listed.'' We would also reclassify the portion of Wyoming that is not a significant portion of the range and the portion that is in the National Parks in Wyoming as ''not listed''. The DPS would no longer exist. The significant portion of the range that exists outside the National Parks within the State of Wyoming would continue to be listed as ''nonessential experimental'' based on the biologically significant nature of that portion of the species' range and the continuing unacceptable level of threats that occur under the State's current statute and management plan. Accordingly, we request that comments also be submitted which specifically address this alternative as well as the proposal to establish this DPS.

The following analysis examines all significant factors currently affecting the NRM wolf population or likely to affect it within the foreseeable future.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The NRM DPS is approximately 980,803 km^2 (378,690 mi^2) and includes 411,308 km^2 (158,807 mi^2) of Federal land (42 percent); 53,701 km^2 (20,734 mi^2) of State land (5 percent); 39,026 km^2 (15,068 mi^2) of Tribal land (4 percent); and 467,604 km^2 (180,543 mi^2) of private land (48 percent). The DPS contains large amounts of three Ecoregion Divisions—Temperate Steppe (prairie) (312,148 km^2 [120,521 mi^2]); Temperate Steppe Mountain (forest) (404,921 km^2 [156,341 mi^2]); and Temperate Desert (high desert) (263,544 km^2 [101,755 mi^2]) (Bailey 1995, p. iv). The following analysis focuses on suitable habitat within the DPS and currently occupied areas (which may include intermittent unsuitable habitat). Finally, unsuitable habitat, ungulate populations, and connectivity are discussed.

Suitable Habitat—Wolves once occupied or transited most, if not all, of the proposed NRM DPS. However, much of the wolf's historical range within this area has been modified for human use and is no longer suitable habitat. We have reviewed the quality, quantity, and distribution of habitat relative to the biological requirements of wolves; the historic value of the habitat to wolves; the frequency of use of the habitat; the uniqueness or importance of the habitat for other reasons, such as breeding, feeding, migration, wintering, or suitability for population expansion; genetic diversity; and other biological factors. In doing so we used two relatively new models, Oakleaf *et al.* (2006, pp. 555–558) and Carroll *et al.* (2006, pp. 27–31), to help us gauge the current amount and distribution of suitable wolf habitat in the NRM. Both models ranked areas as suitable habitat if they had characteristics that suggested they might have a 50 percent or greater chance of supporting wolf packs. Suitable wolf habitat in the NRM was typically characterized by both models as public land with mountainous, forested habitat that contains abundant year-round wild ungulate populations, low road density, low numbers of domestic livestock that are only present seasonally, few domestic sheep, low agricultural use, and few people. Unsuitable wolf habitat was typically just the opposite (i.e., private land, flat open prairie or desert, low or seasonal wild ungulate populations, high road density, high numbers of year-round domestic livestock including many domestic sheep, high levels of agricultural use; and many people). Despite their similarities, these two models had substantial differences in their analysis area, layers, inputs, and assumptions. As a result, the Oakleaf *et al.* (2006, p. 559) and Carroll *et al.* (2006, p. 33) models predicted different amounts of theoretically suitable wolf habitat where their models overlapped (i.e., portions of Montana, Idaho, and Wyoming).

Oakleaf's basic model was a more intensive effort that only looked at potential wolf habitat in Idaho, Montana, and Wyoming (Oakleaf *et al.* 2006, p. 555). It used roads accessible to two-wheel and four-wheel vehicles, topography (slope and elevation), land ownership, relative ungulate density (based on State harvest statistics), cattle (*Bos sp.*) and sheep density, vegetation characteristics (ecoregions and land cover), and human density to comprise its geographic information system (GIS) layers. Oakleaf analyzed the characteristics of areas occupied and not occupied by NRM wolf packs through 2000 to predict what other areas in the NRM might be suitable or unsuitable for future wolf pack formation (Oakleaf *et al.* 2006, p. 555). In total, Oakleaf *et al.* (2006, p. 559) ranked 170,228 km^2 (65,725 mi^2) as suitable habitat in Montana, Idaho, and Wyoming.

In contrast, Carroll's model analyzed a much larger area (all 12 western States and northern Mexico) in a less specific way (Carroll *et al.* 2006, pp. 27–31). Carroll's model used density and type of roads, human population density and distribution, slope, and vegetative greenness as ''pseudo-habitat'' to estimate relative ungulate density to predict associated wolf survival and fecundity rates (Carroll *et al.* 2006, p. 29). The combination of the GIS model and wolf population parameters were then used to develop estimates of habitat theoretically suitable for wolf pack persistence. In addition, Carroll predicted the potential effect on suitable wolf habitat of increased road development and human density expected by 2025 (Carroll *et al.* 2006, pp. 30–31). Within the proposed DPS, Carroll *et al.* (2006, pp. 27–31) ranked 277,377 km^2 (107,096 mi^2) as suitable including 105,993 km^2 (40,924 mi^2) in Montana; 82,507 km^2 (31,856 mi^2) in Idaho; 77,202 km^2 (29,808 mi^2) in Wyoming; 6,620 km^2 (2,556 mi^2) in Oregon; 4,286 km^2 (1,655 mi^2) in Utah; and 769 km^2 (297 mi^2) in Washington. Approximately 96 percent of the suitable habitat (265,703 km^2 (102,588 mi^2)) within the DPS occurred in Montana, Idaho, and Wyoming. According to the Carroll model, approximately 28 percent of the NRM DPS would be ranked as suitable habitat (Carroll *et al.* 2006, pp. 27–31).

We believe that the Carroll *et al.* (2006, pp. 31–34) model tended to be more liberal in identifying suitable wolf habitat under current conditions than either the Oakleaf (*et al.* 2006, pp. 558–560) model or our field observations indicate is realistic, but Carroll's model provided a valuable relative measure across the western United States upon

which comparisons could be made. The Carroll model did not incorporate livestock density into its calculations as the Oakleaf model did (Carroll *et al.* 2006, pp. 27–29; Oakleaf *et al.* 2006, p. 556). Thus, this model ignores the fact that in situations where livestock and wolves both live in the same area, there will be some livestock losses, some wolf losses, and some wolf removal to reduce the rate of conflict. During the past 20 years, wolf packs have been unable to persist in areas intensively used for livestock production, primarily because of agency control of problem wolves and illegal killing.

Furthermore, many of the more isolated primary habitat patches that the Carroll model predicted as currently suitable were predicted to be unsuitable by the year 2025, indicating they were likely on the lower end of what ranked as suitable habitat in that model (Carroll *et al.* 2006, p. 32). Because these types of areas were typically small and isolated from the core population segments, we do not believe they are currently suitable habitat based upon on our data on wolf pack persistence for the past 10 years (Bangs *et al.* 1998, p. 788; Service *et al.* 1999–2006, Figure 1). Even if one views these habitat areas as suitable, they are not a significant portion of the range.

Despite the substantial differences in each model's analysis area, layers, inputs, and assumptions, both models predicted that most suitable wolf habitat in the NRM was in northwestern Montana, central Idaho, and the GYA, and in the area currently occupied by the NRM wolf population. They also indicated that these three areas were connected. However, northwest Montana and Idaho were more connected to each other than the GYA, and collectively the three core areas were surrounded by large areas of unsuitable habitat.

These models are useful in understanding the relative proportions and distributions of various habitat characteristics and their relationships to wolf pack persistence, rather than as predictors of absolute acreages or areas that can actually be occupied by wolf packs. Additionally, both models generally support earlier predictions about wolf habitat suitability in the NRM (Service 1980, p. 9; 1987, p. 7; 1994, p. vii). Because theoretical models only define suitable habitat as those areas that have characteristics with a 50 percent or more chance of supporting wolf packs, it is impossible to give an exact acreage of suitable habitat that can actually be successfully occupied by wolf packs. It is important to note that these areas also have up to a 50 percent chance of not supporting wolf packs.

We considered data on the location of suitable wolf habitat from a number of sources in developing our estimate of suitable wolf habitat in the NRM. Specifically, we considered the locations estimated in the 1987 wolf recovery plan (Service 1987, p. 23), the primary analysis areas analyzed in the 1994 Environmental Impact Statement (EIS) for the GYA (63,700 km^2 [24,600 mi^2]) and central Idaho (53,600 km^2 [20,700 mi^2]) (Service 1994, p. iv), information derived from theoretical models by Carroll *et al.* (2006, p. 25) and Oakleaf *et al.* (2006, p. 554), our nearly 20 years of field experience managing wolves in the NRM, and locations of persistent wolf packs since recovery has been achieved. Collectively, this evidence leads us to concur with the Oakleaf *et al.* (2006, p. 559) model's predictions that the most important habitat attributes for wolf pack persistence are forest cover, public land, high elk density, and low livestock density. Therefore, we believe that Oakleaf's calculations of the amount and distribution of suitable wolf habitat available for persistent wolf pack formation, in the parts of Montana, Idaho, and Wyoming analyzed, represents the most reasonably realistic prediction of suitable wolf habitat in Montana, Idaho, and Wyoming. We do not predict that changes in habitat quantity, quality, and distribution of suitable habitat nor land-uses in the foreseeable future in all or a significant portion of range in the NRM DPS will threaten wolf population recovery. However, Oakleaf predicted that most of the suitable habitat in the GYA recovery area outside the National Parks is in northwestern Wyoming. Additionally, an important component of suitable habitat is a reduction or lack of risk to excessive human-caused mortality. Therefore, that area of northwestern Wyoming outside the National Parks that is listed as ''predatory animal'' under Wyoming state law and plan would sustain such a high level of excessive human-caused mortality that otherwise suitable wolf habitat there would be rendered unsuitable and the range of the GYA segment of the NRM wolf population would fall below that needed to assure its continued existence into the future.

The area that we conclude is suitable habitat is generally depicted in Oakleaf's *et al.* (2006) map on page 559. Although some areas outside this depiction have been temporarily occupied and used by wolves, or even packs, we consider them to be unsuitable habitat because wolf packs have generally failed to persist there long enough to be categorized as breeding pairs and successfully contribute toward our recovery goals. Generally this area of suitable habitat is located in western Montana, Idaho north of Interstate 84, and the NW corner of Wyoming, east of state highway 120, along the western border of the Wind River Reservation, and USDA Forest Service lands north of Boulder, WY. Although Carroll determined there may be some potentially suitable wolf habitat in the NRM DPS outside of Montana, Idaho, and Wyoming, we believe it is marginally suitable at best and is insignificant to wolf population recovery because it occurs in small isolated fragmented areas. Therefore, we consider such areas as containing unsuitable habitat and that dispersing wolves attempting to colonize those areas are unlikely to significantly contribute to population recovery.

Significant Portion of Range—We determined whether a portion of the species range is significant based on the biological needs of the species and the nature of the threats to the species. As stated above, the factors we used to determine significance include, but may not be limited to the following: quality, quantity, and distribution of habitat relative to the biological requirements of the species; the historic value of the habitat to the species; the frequency of use of the habitat; the uniqueness or importance of the habitat for other reasons, such as breeding, feeding, migration, wintering, or suitability for population expansion; genetic diversity (the loss of genetically based diversity may substantially reduce the ability of the species to respond and adapt to future environmental changes or perturbations); and other biological factors. In determining whether a portion of a species' range is significant we have also considered the portion's contribution to the representation (involves conserving the breadth of the genetic makeup of the species to conserve its adaptive capabilities; populations in peripheral areas may be important in terms of affecting future evolutionary processes), resilience (a species ability to recover from periodic disturbances or environmental variability; this is often related to habitat quality because it is assumed that the species is most resilient in its best habitat), or redundancy (ensuring a sufficient number of populations to provide a margin of safety for the species to withstand catastrophic events) of the species as a whole.

After careful examination of the NRM DPS in the context of our definition of

''significant portion of the range'' we have determined that portions of Idaho, Montana, and Wyoming each constitute a biologically significant portion of the NRM DPS because: (1) Idaho, Montana, and Wyoming contain the lion's share of suitable habitat within the DPS (approximately 96 percent of suitable habitat within the DPS according to Carroll (2006) (see Factor A below); (2) the suitable habitat within portions of these 3 States is of sufficient quality, extent, and distribution to support a viable wolf metapopulation (Service 1980, pp. 12–13; Service 1987, pp. 12, 23; Service 1994, pp. v, 3:1–109, 4:1–103; Carroll *et al.* 2003, p. 541; Carroll *et al.* 2006, p. 32; Oakleaf *et al.* 2006, pp. 70–71); (3) suitable habitat in Idaho, Montana, and Wyoming currently support all of the known wolf breeding pairs in the NRM (Service *et al.* 2006, Figure 1); and (4) maintenance of at least 30 breeding pairs and 300 wolves well distributed among these States, long considered necessary to maintain a viable wolf population in the NRM (Service 1987, p. 12; Service 1994, pp. 6:74–75; Bangs 2002, pp. 1–7), requires maintenance of wolf breeding pairs in each State. The ability to declare the NRM wolf population recovered at such relatively modest recovery goals is dependent as much on its overall distribution as simply maintaining at least 30 breeding pairs and at least 300 wolves in the three recovery areas/states. Therefore, that is the reason a significant portion of range is dependent on each of the three states contributing its share of suitable habitat. Current predatory animal status in Wyoming would jeopardize the GYA significant portion of range and the overall NRM wolf population. Thus, if Wyoming fails to modify its regulatory framework, the Act's protections will be necessary to ensure the GYA portion of the NRM wolf population is maintained above recovery levels into the foreseeable future.

Suitable habitat within the occupied area, particularly between the population segments, is important to maintain the overall population and is a significant portion of the range in the DPS. Habitat on the outer edge of the metapopulation is not capable of supporting wolf breeding pairs, is insignificant to maintaining the NRM wolf population's viability, and is not a significant portion of the range.

Oakleaf *et al.* (2006, p. 559) predicted that roughly 148,599 km^2 (57,374 mi^2) or 87 percent of Wyoming's, Idaho's, and Montana's suitable habitat was within the area we describe as the area currently occupied by the NRM wolf population. Substantial threats to this area would have the effect of threatening the viability of the NRM wolf population. These core areas are necessary for maintaining a viable, self-sustaining, and evolving representative metapopulation in order for the NRM wolf population to persist into the foreseeable future. We believe the remaining unoccupied, roughly 13 percent, of theoretical suitable wolf habitat (as described by Oakleaf *et al.* 2006, p. 561) is not capable of supporting wolf breeding pairs, is insignificant to maintaining the NRM wolf population's viability, and is not a significant portion of the range. We nevertheless considered potential threats to this area.

Additionally, the portions of Oregon, Washington, and Utah within the DPS are not a significant portion of the NRM DPS because: (1) These portions of Oregon, Washington, and Utah contain only about 4 percent of suitable habitat within the DPS (Carroll 2005); (2) habitat in these States is generally lower quality and more fragmented (Carroll *et al.* 2006, p. 541); (3) Oregon, Washington, and Utah do not currently support any wolf packs (although, on occasion, a few dispersing wolves have been documented in these areas) (Service *et al.* 1989–2006, Tables 1–3); and (4) if wolf packs did form in these areas, they might contribute to a viable wolf population in the NRM, but would not be essential for its continued existence.

In summary, a total of about 275,533 km^2 (106,384 mi^2) of occupied habitat in parts of western Montana (125,208 km^2 [48,343 mi^2]), Idaho (116,309 km^2 [44,907 mi^2]), and northwestern Wyoming (34,017 km^2 [13,134 mi^2]) (Service *et al.* 2005, Figure 1) are a significant portion of range in the NRM DPS. All other areas in the NRM DPS are not a significant portion of range. This area is roughly western Montana west of I–15 and North of I–90, Idaho north of I–84 and in Wyoming west of state highway 120, along the western border of the Wind River Reservation, and USDA Forest Service lands north of Boulder, WY to the Idaho border. More specifically, this area of northwestern Wyoming is described as: the junction of U.S. Highway 120 and the Wyoming/Montana State line; running southerly along state Highway 120 to the Greybull River; southwesterly up said river to the Wood River; running southwesterly up said river to the U.S. Forest Service boundary; following the U.S. Forest Service boundary southerly to the northern boundary of the Wind River Indian Reservation; following the Reservation boundary westerly, then southerly across U.S. Highway 26/287 to the Continental Divide; following the Continental Divide southeasterly to Middle Fork of Boulder Creek; following the Middle Fork of Boulder Creek and then Boulder Creek westerly to the U.S. Forest Service boundary; following the U.S. Forest Service boundary northwesterly to its intersection with U.S. Highway 189/191; following U.S. Highway 189/91 northwesterly to the intersection with Wyoming state highway 22 in the town of Jackson; following Wyoming state highway 22 westerly to the Wyoming/Idaho State line.

The significant portion of range for the NRM wolf population includes habitat where there are large blocks of contiguous public land; habitat is primarily forest in Temperate Steppe Regime Mountains (Bailey 1995); elk and/or white-tailed and mule deer are common; livestock are primarily cattle, grazed seasonally, and are at lower density than on private land; road density is low; and human presence is low or seasonal. The amount, connectivity, and location of these habitat characteristics in western Montana, central Idaho, and the GYA is sufficient to support a metapopulation of at least 30 breeding pairs and 300 gray wolves equitably distributed in western Montana, central Idaho and northwestern Wyoming. These areas in the NRM DPS are depicted in Figure 2. We do not predict that changes in habitat quantity, quality, or distribution of suitable habitat nor land-uses in the foreseeable future in all or a significant portion of range in the NRM DPS will threaten wolf population recovery.

Unoccupied Suitable Habitat—Habitat suitability modeling indicates the NRM core recovery areas are atypical of other habitats in the western United States because suitable habitat in those core areas occurs in such large contiguous blocks (Service 1987, p. 7; Larson 2004, p. 49; Carroll *et al.* 2006, p. 35; Oakleaf *et al.* 2006, p. 559). It is likely that without core refugia areas like YNP and the central Idaho wilderness that provide a steady influx of dispersing wolves, other potentially suitable wolf habitat would not be capable of sustaining wolf packs. Some habitat ranked by models as suitable that is adjacent to core refugia may be able to support wolf packs, while some theoretically suitable habitat that is farther away from a strong source of dispersing wolves may not be able to support persistent packs. This fact is important to consider as suitable habitat, as defined by the Carroll (*et al.* 2006, p. 30) and Oakleaf (*et al.* 2006, p. 559) models, only has a 50 percent or greater chance of being successfully

occupied by wolf packs. Therefore, model predictions regarding habitat suitability do not always translate into successful wolf occupancy and wolf breeding pairs.

Strips and smaller (less than 2,600 km^2 [1,000 mi^2]) patches of theoretically suitable habitat (Carroll *et al.* 2006, p. 34; Oakleaf *et al.* 2006, p. 559) (typically isolated mountain ranges) often possess higher mortality risk for wolves because of their enclosure by, and proximity to, areas of high mortality risk. This phenomenon, in which the quality and quantity of suitable habitat is diminished because of interactions with surrounding less-suitable habitat, is known as an edge effect (Mills 1995, pp. 400–401). Edge effects are exacerbated in small habitat patches with high perimeter-to-area ratios (*i.e.*, those that are long and narrow, like isolated mountain ranges) and in long-distance dispersing species, like wolves, because they are more likely to encounter surrounding unsuitable habitat (Woodroffe and Ginsberg 1998, p. 2128). Because of edge effects, some habitat areas outside the core areas may rank as suitable in models but are unlikely to actually be successfully occupied by wolf packs. For these reasons, we believe that the NRM wolf population will remain centered in the three recovery areas. These core population segments will continue to provide a constant source of dispersing wolves into surrounding areas, supplementing wolf packs in adjacent but less secure suitable habitat.

Currently Occupied Habitat—The area ''currently occupied'' by the NRM wolf population was calculated by drawing a line around the outer points of radio-telemetry locations of all known wolf pack territories in 2004 (n=110) (Service *et al.* 2005, Figure 1). We defined occupied wolf habitat as that area confirmed as being used by resident wolves to raise pups or that is consistently used by two or more territorial wolves for longer than 1 month (Service 1994, pp. 6:5–6). We relied upon 2004 wolf monitoring data (Service *et al.* 2005, Figure 1). The overall distribution of wolf packs has been similar since 2000, despite a wolf population that has more than doubled (Service *et al.* 2001–2006, Figure 1; Bangs *et al.* in pressb). Because the States, except Wyoming, have committed to maintain a wolf population above the minimum recovery levels (first achieved in 2000) we expect this general distribution will be maintained. We do not believe the Wyoming state law and plan provide enough assurance that the significant portion of range outside the National Parks in northwestern Wyoming would remain occupied by enough wolf breeding pairs to maintain that segment of the metapopulation above recovery levels. However, if Wyoming does not modify its management plan and law, that portion of the wolf population will be maintained through the protections afforded by the Act in the significant portion of the wolves' range outside of the National Parks in Wyoming. Occupied habitat changed little (about 5 percent) from 2004 (275,533 km^2 [106,384 mi^2]) to 2005 (260,535 km^2 [100,593 mi^2]) (Service *et al.* 2006, Figure 1), so we used the currently occupied habitat analysis from the February 8, 2006 ANPR (71 FR 6634) for this proposed rule (Bangs *et al.* in pressb).

We included areas between the core recovery segments as occupied wolf habitat because they are important for connectivity between segments even though wolf packs did not persist in certain portions of these areas. While models ranked some of this habitat as unsuitable, those intervening areas are important to maintaining the metapopulation structure because dispersing wolves routinely travel through those areas (Service 1994, pp. 6:5–6; Bangs 2002, p. 3). This would include areas such as the Flathead Valley and other smaller valleys intensively used for agriculture, and a few of the smaller, isolated mountain ranges surrounded by agricultural lands in west-central Montana.

As of the end of 2004, we estimated approximately 275,533 km^2 (106,384 mi^2) of occupied habitat in parts of Montana (125,208 km^2 [48,343 mi^2]), Idaho (116,309 km^2 [44,907 mi^2]), and Wyoming (34,017 km^2 [13,134 mi^2]) (Service *et al.* 2005, Figure 1). Although currently occupied habitat includes some prairie (4,488 km^2 [1,733 mi^2]) and some high desert (24,478 km^2 [9,451 mi^2]), wolf packs did not use these habitat types successfully (Service *et al.* 2005, Figure 1). Since 1986, no persistent wolf pack has had a majority of its home range in high desert or prairie habitat. Landownership in the occupied habitat area is 183,485 km^2 (70,844 mi^2) Federal (67 percent); 12,217 km^2 (4,717 mi^2) State (4.4 percent); 3,064 km^2 (1,183 mi^2) Tribal (1.7 percent); and 71,678 km^2 (27,675 mi^2) private (26 percent) (Service *et al.* 2005, Figure 1).

We determined that the current wolf population resembles a three-segment metapopulation and that the overall area used by the NRM wolf population has not significantly expanded since the population achieved recovery. Stagnant distribution patterns indicate there is probably limited suitable habitat for the NRM wolf population to expand significantly beyond its current borders. Carroll's model predicted that 165,503 km^2 (63,901 mi^2) of suitable habitat (62 percent) was within the occupied area; however, the model's remaining potentially suitable habitat (38 percent) was often fragmented and in smaller, more isolated patches (Carroll *et al.* 2006, p. 35).

Montana, Idaho, and Wyoming must each manage for 15 breeding pairs and maintain at least 10 breeding pairs and 100 wolves in mid-winter to ensure long-term viability of the NRM gray wolf population. The NRM wolf population occupies nearly 100 percent of the recovery areas recommended in the 1987 recovery plan (*i.e.*, central Idaho, the GYA, and the northwestern Montana recovery areas) (Service 1987, p. 23) and nearly 100 percent of the primary analysis areas (the areas where suitable habitat was believed to exist and the wolf population would live) analyzed for wolf reintroduction in central Idaho and the GYA (Service 1994, p. 1:6). Because of this success and the continued management of public lands in the significant portion of range in the NRM DPS for high ungulate densities, low to moderate road and livestock densities, and other factors contributing to successful wolf occupancy, we conclude that the threats to habitat under Factor A are not substantial enough to threaten or endanger wolf populations within the NRM in the foreseeable future.

Potential Threats Affecting a Significant Portion of Range—Establishing a recovered wolf population in the NRM did not require land-use restrictions or curtailment of traditional land-uses because there was enough suitable habitat, enough wild ungulates, and sufficiently few livestock conflicts to recover wolves under existing conditions (Bangs *et al.* 2004, pp. 95–96). We do not believe that any traditional land-use practices in the NRM need be modified to maintain a recovered NRM wolf population into the foreseeable future. We do not anticipate overall habitat changes in the NRM occurring at a magnitude that will threaten wolf recovery in the foreseeable future because 70 percent of the suitable habitat is in public ownership that is managed for multiple uses, including maintenance of viable wildlife populations (Carroll *et al.* 2003, p. 542; Oakleaf *et al.* 2006, p. 560).

The GYA and central Idaho recovery areas, 63,714 km^2 (24,600 mi^2) and 53,613 km^2 (20,700 mi^2), respectively, are primarily composed of public lands (Service 1994, p. iv) and are the largest

contiguous blocks of suitable habitat within the proposed NRM DPS. Central Idaho and the GYA provide secure habitat and abundant ungulate populations with about 99,300 ungulates in the GYA and 241,400 in central Idaho (Service 1994, pp. viii–ix). These areas provide optimal suitable habitat to help maintain a viable wolf population (Service 1994, p. 1:4). The central Idaho recovery area has 24,281 km² (9,375 mi²) of designated wilderness at its core (Service 1994, p. 3:85). The GYA recovery area has a core including over 8,094 km² (3,125 mi²) in YNP and, although less useful to wolves due to high elevation, about 16,187 km² (6,250 mi²) of designated wilderness (Service 1994, p. 3:45). These areas are in public ownership, and no foreseeable habitat-related threats would prevent them from anchoring a wolf population that exceeds recovery levels.

While the northwestern Montana recovery area (>49,728 km² [>19,200 mi²]) (Bangs *et al.* 1998, p. 786) also has a core of suitable habitat (Glacier National Park and the Bob Marshal Wilderness Complex), it is not as high quality, as large, or as contiguous as that in either central Idaho or GYA. The primary reason for this is that ungulates do not winter throughout the area because it is higher in elevation. Most wolf packs in northwestern Montana live west of the Continental Divide, where forest habitats are a fractured mix of private and public lands (Service *et al.* 1989–2006, Figure 1). This mix exposes wolves to higher levels of human-caused mortality, and thus this area supports smaller and fewer wolf packs. Wolf dispersal into northwestern Montana from the more stable resident packs in the core protected area (largely the North Fork of the Flathead River along the eastern edge of Glacier National Park and the few large river drainages in the Bob Marshall Wilderness Complex) helps to maintain that segment of the NRM wolf population. Wolves also disperse into northwestern Montana from Canada and some packs have trans-boundary territories, helping to maintain the NRM population (Boyd *et al.* 1995). Conversely, wolf dispersal from northwestern Montana into Canada, where wolves are much less protected, continues to draw some wolves into vacant or low-density habitats in Canada where they are subject to legal hunting (Bangs *et al.* 1998, p. 790). Despite mortalities that occur in Canada, the trans-boundary movements of wolves and wolf packs led to the establishment of wolves in Montana, and will continue to have an overall positive effect on wolf genetic diversity and demography in the northwest Montana segment of the NRM wolf population.

Within occupied suitable habitat, enough public land exists so that NRM wolf populations can be maintained above recovery levels. Most important suitable wolf habitat is in public ownership, and the States and Federal land-management agencies are likely to continue to manage habitat that will provide forage and security for high ungulate populations, sufficient cover for wolf security, moderate and seasonal levels of livestock grazing, and low road density. Carroll *et al.* (2003, p. 541; 2006, p. 31) predicted future wolf habitat suitability under several scenarios through 2025, including increased human population growth and road development. Those threats were not predicted to alter wolf habitat suitability in the proposed NRM DPS enough to cause the wolf population to fall below recovery levels in the foreseeable future.

The recovery plan (Service 1987, p. 13), the metapopulation structure recommended by the 1994 EIS (Service 1994, pp. 6:74–75), and subsequent investigations (Bangs 2002, p. 3) recognize the importance of habitat connectivity between northwestern Montana, central Idaho, and the GYA. There appears to be enough habitat connectivity between occupied wolf habitat in Canada, northwestern Montana, Idaho, and (to a lesser extent) the GYA to ensure exchange of sufficient numbers of dispersing wolves to maintain demographic and genetic diversity in the NRM wolf metapopulation (Oakleaf *et al.* 2006, p. 559; Carroll *et al.* 2006, p. 32; Wayne 2005; Boyd 2006). To date, from radio-telemetry monitoring, we have documented routine wolf movement between Canada and northwestern Montana (Pletscher *et al.* 1991, p. 544; Boyd and Pletscher 1999, pp. 1095–1096), occasional wolf movement between Idaho and Montana, and at least 11 wolves have traveled into the GYA (Wayne 2005; Boyd *et al.* 1995, pp. iii–3–1; Boyd 2006). Because we know only about the 30 percent of the wolf population that has been radio-collared, additional dispersal has undoubtedly occurred. This documentation demonstrates that current habitat conditions allow dispersing wolves to occasionally travel from one recovery area to another. Finally, the Montana State plan (the key State regarding connectivity) commits to maintaining natural connectivity to ensure the genetic integrity of the NRM wolf population by promoting land uses, such as traditional ranching, that enhance wildlife habitat and conservation.

Another important factor in maintaining wolf populations is the native ungulate population. Wild ungulate prey in these three areas are composed mainly of elk, white-tailed deer, mule deer, moose, and (only in the GYA) bison. Bighorn sheep, mountain goats, and pronghorn antelope also are common but not important, at least to date, as wolf prey. In total, 100,000–250,000 wild ungulates are estimated in each NRM State where wolf packs currently exist (Service 1994, pp. viii–ix). The States in the NRM DPS have managed resident ungulate populations for decades and maintain them at densities that would easily support a recovered wolf population. We know of no foreseeable condition that would cause a decline in ungulate populations significant enough to threaten the recovered status of the NRM wolf population.

Cattle and sheep are at least twice as numerous as wild ungulates even on public lands (Service 1994, p. viii). The only areas lacking livestock large enough to support wolf packs are YNP, Glacier National Park, some adjacent USFS Wilderness Areas, and parts of Wilderness Areas in central Idaho and northwestern Montana. Consequently, every wolf pack outside these areas has interacted with some livestock, primarily cattle. Livestock and livestock carrion are routinely used by wolves, but management discourages chronic use of livestock as prey. Conflict between wolves and livestock has resulted in the annual removal of some wolves (Bangs and Shivik 1991, pg 2; Bangs *et al.* 1995, p. 131; 2004, p. 92; 2005a, pp. 342–344; Service *et al.* 2006, Table 5a). This issue is discussed further under Factors D and E.

Therefore, except for Wyoming's predatory animal status, we do not foresee that impacts to suitable and potentially suitable habitat will occur at levels that will significantly affect wolf numbers or distribution or affect population recovery and long-term viability in the NRM. Occupied suitable habitat is secured by core recovery areas in northwestern Montana, central Idaho, and the GYA, except for the area of northwestern Wyoming outside the National Parks. These areas include Glacier National Park, Grand Teton National Park, YNP, numerous USFS Wilderness Areas, and other State and Federal lands. These areas will continue to be managed for high ungulate densities, moderate rates of seasonal livestock grazing, moderate-to-low road densities associated with abundant

native prey, low potential for livestock conflicts, and security from excessive unregulated human-caused mortality. The core recovery areas also are within proximity to one another and have enough public land between them to ensure sufficient connectivity into the foreseeable future.

No significant threats to the significant portion of range in Idaho, Montana, and Wyoming are known to exist in the foreseeable future, except for Wyoming's predatory animal status. These areas have long been recognized as the most likely areas to successfully support 30 or more breeding pairs of wolves, comprising 300 or more individuals in a metapopulation with some genetic exchange between subpopulations (Service 1980, pp. 1–4; 1987, p. 23; 1994, pp. 6, 74–75; 71 FR 6634, February 8, 2006). Unsuitable habitat and small fragmented areas of suitable habitat away from these core areas, largely represent geographic locations where wolves are likely to persist in low numbers, if at all. Although such areas may historically have contained suitable habitat (and may contribute to a healthy wolf population in the NRM), wolf packs in these areas are not important or necessary for maintaining a viable, self-sustaining, and evolving representative wolf population in the NRM into the foreseeable future. These areas are not a significant portion of the range for the NRM wolf population.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

As detailed below, overutilization for commercial, recreational, scientific, or educational purposes have not been a significant threat to the NRM wolf population. Mortality rates caused by commercial, recreational, scientific, or educational purposes are not anticipated to exceed sustainable levels following delisting. These activities have not been a threat to the viability of the wolves in the past and we have no reason to believe that they would become a threat to the viability of the wolves in the foreseeable future. However, as discussed later in Factor D, we have determined that human-caused mortality associated with Wyoming's current management strategy for treating delisted wolves as ''predatory animals'' would exceed sustainable levels if the species were delisted in the State.

Since their listing under the Act, no gray wolves have been legally killed or removed from the wild in the NRM for commercial, recreational, or educational purposes. In the NRM, about 3 percent of the wolves captured for scientific research, nonlethal control, and monitoring have been accidentally killed (Bangs *et al.* in pressa). Some wolves may have been illegally killed for commercial use of the pelts and other parts, but we believe illegal commercial trafficking in wolf pelts or wolf parts is rare. Illegal capture of wolves for commercial breeding purposes also is possible, but we have no evidence that it occurs in the NRM. We believe the prohibition against ''take'' provided for by Section 9 of the Act has discouraged and minimized the illegal killing of wolves for commercial or recreational purposes. Although Federal penalties under Section 11 of the Act will not apply if delisting is finalized, other Federal laws will still protect wildlife in National Parks and on other Federal lands (Service 1994, pp. 1:5–9). In addition, the States and Tribes have similar laws and regulations that protect game or trophy animals from overutilization for commercial, recreational, scientific, and educational purposes (See Factor D for a more detailed discussion of this issue and world wide web links to applicable State laws and regulations). We believe these laws will continue to provide a strong deterrent to illegal killing of wolves by the public as they have been effective in State-led conservation programs for other resident wildlife such as black bears and mountain lions. In addition, the State fish and game agencies, National Parks, other Federal agencies, and most Tribes have well-distributed experienced cadres of professional law enforcement officers to help enforce State, Federal, and Tribal wildlife regulations (See Factor D).

Scientific Research and Monitoring—From 1984 to 2005, the Service and our cooperating partners captured about 814 NRM wolves for monitoring, nonlethal control, and research purposes with 23 accidental deaths. If NRM wolves were delisted, the States, National Parks, and Tribes would continue to capture and radio-collar wolves in the NRM area for monitoring and research purposes in accordance with their State wolf management plans (See ''Factor D'' and ''Post-Delisting Monitoring'' sections). We expect that capture-caused mortality by Federal agencies, universities, States, and Tribes conducting wolf monitoring, nonlethal control, and research will remain below 3 percent of the wolves captured, and will be an insignificant source of mortality to the wolf population.

Education—We are unaware of any wolves that have been removed from the wild for solely educational purposes in recent years. Wolves that are used for such purposes are usually the captive-reared offspring of wolves that were already in captivity for other reasons. However, States may get requests to place wolves that would otherwise be euthanized in captivity for research or educational purposes. Such requests have been, and will continue to be, rare; would be closely regulated by the State wildlife management agencies through the requirement for State permits for protected species; and would not substantially increase human-caused wolf mortality rates.

Commercial and Recreational Uses—In Idaho and Montana, any legal take after delisting would be regulated by State or Tribal law so that it would not threaten each State's share of the NRM wolf population (See Factor D). Currently, Wyoming State law does not regulate human-caused mortality to wolves throughout most of Wyoming (see Factor D for a more detailed description of this issue). This unaddressed threat was one of the primary reasons the Service did not approve the final Wyoming Plan (71 FR 43410, August 1, 2006; WGFD 2003; Williams 2004). If Wyoming changes its law and plan in a satisfactory manner, this will no longer be a threat.

Because wolves are highly territorial, wolf populations in saturated habitat naturally limit further population increases through wolf-to-wolf conflict or dispersal to unoccupied habitat. Wolf populations can maintain themselves despite a sustained human-caused mortality rate of 30 percent or more per year (Keith 1983; Fuller *et al.* 2003, pp. 182–184), and human-caused mortality can replace up to 70 percent of natural mortality (Fuller *et al.* 2003, p. 186). Wolf pups can be successfully raised by other pack members and breeding individuals can be quickly replaced by other wolves (Brainerd 2006). Collectively, these factors means that wolf populations are quite resilient to human-caused mortality if it can be regulated.

Montana and Idaho would regulate human-caused mortality to manipulate wolf distribution and overall population size to help reduce conflicts with livestock and, in some cases, human hunting of big game, just as they do for other resident species of wildlife. Idaho and Montana, and some Tribes in those States, would allow regulated public harvest of surplus wolves in the NRM wolf population for commercial and recreational purposes by regulated private and guided hunting and trapping. Such take and any commercial use of wolf pelts or other parts would be regulated by State or Tribal law (See discussion of State laws and plans under Factor D). The regulated take of

those surplus wolves would not affect wolf population recovery or viability in the NRM because the States of Montana and Idaho (and Wyoming, if its plan is approved in the future) would allow such take only for wolves that are surplus to achieving the State's commitment to maintaining a recovered population.

State laws in Washington, Oregon, and Utah do not allow public take of wolves for recreational or commercial purposes. Regulated hunting and trapping are traditional and effective wildlife management tools that may be applied to help achieve State and Tribal wolf management objectives as needed.

In summary, the States have organizations and regulatory and enforcement systems in place to limit human-caused mortality of wolves (except for Wyoming at this time). Montana's and Idaho's State plans commit these States to regulate all take of wolves, including that for commercial, recreational, scientific, and educational purposes, and will incorporate any Tribal harvest as part of the overall level of allowable take to ensure that the wolf population does not fall below the NRM wolf population's numerical and distributional recovery levels. Wyoming's current State regulatory framework would not adequately regulate human-caused mortality so Wyoming's portion of a recovered wolf population will be maintained through the protections afforded by the Act, unless Wyoming updates its State law and management plan. The States and Tribes have humane and professional animal handling protocols and trained personnel that will ensure that population monitoring and research results in limited unintentional mortalities. Furthermore, the State permitting process for captive wildlife and animal care will ensure that few, if any wolves will be removed from the wild solely for educational purposes. . We do not predict that changes in threats to wolves from overuse for commercial, scientific or educational purposes in all or a significant portion of range in the NRM DPS will threaten wolf population recovery for the foreseeable future. In the significant portion of the range in northwestern Wyoming, either an approved state law and plan or the Act's protection will provide the necessary conservation measures and adequate regulation of these potential threats into the foreseeable future.

C. Disease or Predation

As discussed in detail below, a wide range of diseases may affect the NRM wolves. However, no diseases are of such magnitude that the population is likely to become in danger of extinction in the foreseeable future. Similarly, predation does not pose a significant threat to the NRM wolf population. The rates of mortality caused by disease and predation are well within acceptable limits, and we do not expect those rates to change appreciably if NRM wolves are delisted. More information on disease and predation are discussed below.

Disease—The NRM wolves are exposed to a wide variety of diseases and parasites that are common throughout North America. Many diseases (viruses and bacteria, many protozoa and fungi) and parasites (helminthes and arthropods) have been reported for the gray wolf, and several of them have had significant, but temporary impacts during wolf recovery in the 48 conterminous States (Brand *et al.* 1995, p. 428; Kreeger 2003, pp. 202–214). The EIS on gray wolf reintroduction identified disease impact as an issue, but did not evaluate it further, as it appeared to be insignificant (Service 1994, pp. 1:20–21).

Infectious disease induced by parasitic organisms is a normal feature of the life of wild animals, and the typical wild animal hosts a broad multi-species community of potentially harmful parasitic organisms (Wobeser 2002, p. 160). We fully anticipate that these diseases and parasites will follow the same pattern seen in other areas of North America (Brand *et al.* 1995, pp. 428–429; Bailey *et al.* 1995, p. 445; Kreeger 2003, pp. 202–204) and will not significantly threaten wolf population viability. Nevertheless, because these diseases and parasites, and perhaps others, have the potential to impact wolf population distribution and demographics, careful monitoring (as per the State wolf management plans) will track such events. Should such an outbreak occur, human-caused mortality would be regulated over an appropriate area and time period to ensure wolf population numbers in the NRM DPS are maintained above recovery levels in those portions of the DPS.

CPV infects wolves, domestic dogs (*Canis familiaris*), foxes (*Vulpes spp.*), coyotes, skunks (*Mephitis mephitis*), and raccoons (*Procyon lotor*). The population impacts of CPV occur via diarrhea-induced dehydration leading to abnormally high pup mortality (Wisconsin Department of Natural Resources 1999, p. 61). Clinical CPV is characterized by severe hemorrhagic diarrhea and vomiting; debility and subsequent mortality is a result of dehydration, electrolyte imbalances, and shock. The CPV has been detected in nearly every wolf population in North America including Alaska (Johnson *et al.* 1994, p. 270; Bailey *et al.* 1995, p. 441; Brand *et al.* 1995, p. 421; Kreeger 2003, pp. 210–211), and exposure in wolves is thought to be almost universal. Currently, nearly 100 percent of the wolves handled by Montana Fish, Wildlife and Parks (MFWP) (Atkinson 2005) had blood antibodies indicating exposure to CPV. The CPV contributed to low pup survival in the northern range of YNP in 1999, and was suspected to have done so again in 2005 (Smith *et al.* 2006, p. 244). Preliminary monitoring data suggest 2006 pup production and survival in YNP returned to normal levels (Smith 2006). The impact of such disease outbreaks to the overall NRM wolf population has been localized and temporary, as has been documented elsewhere (Bailey *et al.* 1995, p. 441; Brand *et al.* 1995, p. 421; Kreeger 2003, pp. 210–211).

Canine distemper is an acute, fever-causing disease of carnivores caused by a paramyxo-virus (Kreeger 2003, p. 209). It is common in domestic dogs and some wild canids, such as coyotes and foxes in the NRM (Kreeger 2003, p. 209). The seroprevalence in North American wolves is about 17 percent (Kreeger 2003, p. 209). Nearly 85 percent of Montana wolf blood samples analyzed in 2005 had blood antibodies indicating non-lethal exposure to canine distemper (Atkinson 2005). Mortality in wolves has been documented in Canada (Carbyn 1982, p. 109), Alaska (Peterson *et al.* 1984, p. 31; Bailey *et al.* 1995, p. 441), and in a single Wisconsin pup (Wydeven and Wiedenhoeft 2003, p. 7). Distemper is not a major mortality factor in wolves, because despite exposure to the virus, affected wolf populations demonstrate good recruitment (Brand *et al.* 1995, pp. 420–421). Mortality from canine distemper has only been confirmed once in NRM wolves despite their high exposure to it, but we suspect it contributed to the high pup mortality documented in the northern GYA in spring 2005.

Lyme disease, caused by a spirochete bacterium, is spread primarily by deer ticks (*Ixodes dammini*). Host species include humans, horses (*Equus caballus*), dogs, white-tailed deer, mule deer, elk, white-footed mice (*Peromyscus leucopus*), eastern chipmunks (*Tamias striatus*), coyotes, and wolves. Lyme disease has not been reported from wolves beyond the Great Lakes regions (Wisconsin Department of Natural Resources 1999, p. 61). In those populations, it does not appear to cause adult mortality, but might be

suppressing population growth by decreasing wolf pup survival.

Sarcoptic mange is caused by a mite (*Sarcoptes scabeii*) that infests the skin. The irritation caused by feeding and burrowing mites results in intense itching, resulting in scratching and severe fur loss, which can lead to mortality from exposure during severe winter weather or secondary infections (Kreeger 2003, pp. 207–208). Advanced sarcoptic mange can involve the entire body and can cause emaciation, decreased flight distance, staggering, and death (Kreeger 2003, p. 207). In a long-term Alberta wolf study, higher wolf densities were correlated with increased incidence of mange, and pup survival decreased as the incidence of mange increased (Brand *et al.* 1995, pp. 427–428). Mange has been shown to temporarily affect wolf population growth rates and perhaps wolf distribution (Kreeger 2003, p. 208).

Mange has been detected in, and caused mortality to, wolves in the NRM, but almost exclusively in the GYA, and primarily east of the Continental Divide (Jimenez 2006). Those wolves likely contracted mange from coyotes or fox whose populations experience occasional outbreaks. In southwestern Montana, 1 of 12 packs in 2003, 4 of 17 packs in 2004, and 11 of 18 packs in 2005, showed evidence of mange, although not all members of every pack appeared infested (Jimenez 2006b). In Wyoming, east of the YNP, 1 of 8 packs in 2003, 2 of 9 packs in 2003 and 2004, and none of 13 packs in 2005, showed evidence of mange (Jimenez 2006). Mange has not been confirmed in wolves from Idaho or northwestern Montana (Jimenez 2006).

In packs with the most severe infestations, pup survival appeared low, and some adults died (Jimenez 2006). In addition, we euthanized three wolves with severe mange. We predict that mange in the NRM will act as it has in other parts of North America (Brand *et al.* 1995, pp. 427–428; Kreeger 2003, pp. 207–208) and not threaten wolf population viability. Evidence suggests NRM wolves will not be infested on a chronic population-wide level given the recent response of Wyoming wolf packs that naturally overcame a mange infestation.

Dog-biting lice (*Trichodectes canis*) commonly feed on domestic dogs, but can infest coyotes and wolves (Schwartz *et al.* 1983, p. 372; Mech *et al.* 1985, p. 404). The lice can attain severe infestations, particularly in pups. The worst infestations can result in severe scratching, irritated and raw skin, substantial hair loss particularly in the groin, and poor condition. While no wolf mortality has been confirmed, death from exposure and/or secondary infection following self-inflicted trauma, caused by inflammation and itching, appears possible. Dog-biting lice were first confirmed in NRM wolves on two members of the Battlefield pack in the Big Hole Valley of southwestern Montana in 2005, and on a wolf in south-central Idaho in early 2006, but their infestations were not severe (Service *et al.* 2006, p. 15). The source of this infestation is unknown, but was likely domestic dogs.

Rabies, canine heartworm (*Dirofilaria immitus*), blastomycosis, brucellosis, neosporsis, leptospirosis, bovine tuberculosis, canine coronavirus, hookworm, tapeworm, coccidiosis, and canine hepatitis have all been documented in wild gray wolves, but their impacts on future wild wolf populations are not likely to be significant (Brand *et al.* 1995, pp. 419–429; Johnson 1995a, pp. 5–73, 1995b, pp. 5–49; Mech and Kurtz 1999, p. 305; Wisconsin Department of Natural Resources 1999, p. 61; Kreeger 2003, pp. 202–214). Canid rabies caused local population declines in Alaska (Ballard and Krausman 1997, p. 242) and may temporarily limit population growth or distribution where another species, such as arctic foxes (*Alopex lagopus*), act as a reservoir for the disease. Range expansion could provide new avenues for exposure to several of these diseases, especially canine heartworm, rabies, bovine tuberculosis, and possibly new diseases such as chronic wasting disease and West Nile virus, further emphasizing the need for vigilant disease monitoring programs.

Because several of the diseases and parasites are known to be spread by wolf-to-wolf contact, their incidence may increase if wolf densities increase. However, because wolf densities appear to be stabilizing (Service *et al.* 2006, Table 1 & Figure 1), wolf-to-wolf contacts will not likely lead to a continuing increase in disease prevalence. The wolves' exposure to these types of organisms may be most common outside of the core population areas, where domestic dogs are most common, and lowest in the core population areas because wolves tend to flow out of, not into, saturated habitats. Despite this dynamic, we assume that most NRM wolves have some exposure to most diseases and parasites in the system. Diseases or parasites have not been a significant threat to wolf population recovery in the NRM to date, and we have no reason to believe that they will become a significant threat to their viability in the foreseeable future.

In terms of future monitoring, each State has committed to monitor the NRM wolf population for significant disease and parasite problems. These State wildlife health programs often cooperate with Federal agencies and universities and usually have both reactive and proactive wildlife health monitoring protocols. Reactive strategies are the periodic intensive investigations after disease or parasite problems have been detected through routine management practices, such as pelt examination, reports from hunters, research projects, or population monitoring. Proactive strategies often involve ongoing routine investigation of wildlife health information through collection and analysis of blood and tissue samples from all or a sub-sample of wildlife carcasses or live animals that are handled. We do not believe that diseases or changes in disease monitoring by the states or tribes in the foreseeable future in all or a significant portion of range in the NRM DPS will threaten wolf population recovery.

Natural Predation—There are no wild animals that routinely prey on gray wolves (Ballard *et al.* 2003, pp. 259–260). Occasionally wolves have been killed by large prey such as elk, deer, bison, and moose (Mech and Nelson 1989, p. 207; Smith *et al.* 2006, p. 247; Mech and Peterson 2003, p. 134), but those instances are few. Since the 1980s, wolves in the NRM have died from wounds they received while attacking prey on about a dozen occasions (Smith *et al.* 2006, p. 247). That level of mortality could not significantly affect wolf population viability or stability.

Since NRM wolves have been monitored, only three wolves have been confirmed killed by other large predators. Two adults were killed by mountain lions, and one pup was killed by a grizzly bear (Jimenez 2006a). Wolves in the NRM inhabit the same areas as mountain lions, grizzly bears, and black bears, but conflicts rarely result in the death of either species. Wolves evolved with other large predators, and no other large predators in North America, except humans, have the potential to significantly impact wolf populations.

Other wolves are the largest cause of natural predation among wolves. Numerous mortalities have resulted from territorial conflicts between wolves and about 3 percent of the wolf population is removed annually by territorial conflict in the NRM wolf population (Smith 2005). Wherever wolf packs occur, including the NRM, some low level of wolf mortality will result from territorial conflict. Wolf populations tend to regulate their own

density. Consequently territorial conflict is highest in saturated habitats. That cause of mortality is infrequent and does not result in a level of mortality that would significantly affect a wolf population's viability in the NRM (Smith 2005).

Human-caused Predation—Wolves are very susceptible to human-caused mortality, especially in open habitats such as those that occur in the western United States (Bangs *et al.* 2004, p. 93). An active eradication program is the sole reason that wolves were extirpated from the NRM (Weaver 1978, p. i). Humans kill wolves for a number of reasons. In all locations where people, livestock, and wolves coexist, some wolves are killed to resolve conflicts with livestock (Fritts *et al.* 2003, p. 310; Woodroffe *et al.* 2005, pp. 86–107, 345–7). Occasionally, wolf killings are accidental (*e.g.*, wolves are hit by vehicles, mistaken for coyotes and shot, or caught in traps set for other animals) (Bangs *et al.* 2005a, p. 346). Some of these accidental killings are reported to State, Tribal, and Federal authorities.

However, many wolf killings are intentional, illegal, and are never reported to authorities. Wolves do not appear particularly wary of people or human activity, and that makes them very vulnerable to human-caused mortality (Mech and Boitani 2003, pp. 300–302). In the NRM, mountain topography concentrates both wolf and human activity in valley bottoms (Boyd and Pletscher 1999, p. 1105), especially in winter, which increases wolf exposure to human-caused mortality. The number of illegal killings is difficult to estimate and impossible to accurately determine because they generally occur in areas with few witnesses. Often the evidence has decayed by the time the wolf's carcass is discovered or the evidence is destroyed or concealed by the perpetrators. While human-caused mortality, including illegal killing, has not prevented population recovery, it has affected NRM wolf distribution (Bangs *et al.* 2004, p. 93). In the past 20 years, no wolf packs have successfully established and persisted solely in open prairie or high desert habitats that are used for intensive agriculture production (Service *et al.* 2006, Figure 1).

As part of the interagency wolf monitoring program and various research projects, up to 30 percent of the NRM wolf population has been radio-collared since the 1980s (Bangs *et al.* in press). The annual survival rate of mature wolves in northwestern Montana and adjacent Canada from 1984 through 1995 was 80 percent (Pletscher *et al.* 1997, p. 459); 84 percent for resident wolves and 66 percent for dispersers. That study found 84 percent of wolf mortality to be human-caused. Bangs *et al.* (1998, p. 790) found similar statistics, with humans causing most of the wolf mortality in the NRM. Radio-collared wolves in the largest blocks of remote habitat without livestock, such as central Idaho and YNP, had annual survival rates around 80 percent (Smith *et al.*, 2006 p. 245). Wolves outside of large remote areas had survival rates as low as 54 percent in some years (Smith *et al.* 2006, p. 245). This percentage is among the lower end of adult wolf survival rates that an isolated population can sustain (Fuller *et al.* 2003, p. 185).

These survival rates may be biased. Wolves are more likely to be radio-collared if they come into conflict with people, so the proportion of mortality caused by agency depredation control actions could be overestimated by radio-telemetry data. People who illegally kill wolves may destroy the radio-collar, so the proportion of illegal mortality could be underestimated. However, wolf populations have continued to expand in the face of ongoing levels of human-caused mortality.

An ongoing preliminary analysis of the survival data among NRM radio-collared wolves (n=716) (Smith 2005) from 1984 through 2004 indicates that about 26 percent of adult-sized wolves die every year, so annual adult survival averages about 74 percent, which typically allows wolf population growth (Keith 1983, p. 66; Fuller *et al.* 2003, p. 182). Humans caused just over 75 percent of all radio-collared wolf deaths (Smith 2005). This type of analysis does not estimate the cause or rate of survival among pups younger than 7 months of age because they are too small to radio-collar. Agency control of problem wolves and illegal killing are the two largest causes of wolf death; combined these causes remove nearly 20 percent of the population annually and are responsible for a majority of all known wolf deaths (Smith *et al.* 2006, p. 245).

Wolf mortality from agency control of problem wolves (which includes legal take by private individuals under defense of property regulations in rules promulgated under section 10(j) of the Act) is estimated to remove around 10 percent of adult radio-collared wolves annually. From 1995 through 2005, 30 wolves were legally killed by private citizens under Federal defense of property regulations (Service 1994, pp. 2:13–14; 70 FR 1285, January 6, 2005) that are similar to Idaho and Montana State laws that would take effect and direct take of problem wolves by both the public and agencies if wolves were delisted. Agency control removed 396 problem wolves from 1987 through 2005, indicating that private citizen take (about 7 percent) under State defense of property laws would not significantly increase the overall rate of problem wolf removal (Bangs *et al.* in press a, pp. 19–20).

A comparison of the overall wolf population and the number of problem wolves removed indicates agency control removes, on average, about 7 percent of the overall wolf population annually (Service *et al.* 2006, Table 5). Wolf mortality under State and Tribal defense of property regulations incidental to other legal activities, agency control of problem wolves, and legal hunting and trapping would be regulated by Montana, Idaho, and Tribes (and in Wyoming if it changes its law and management plan) if the Act's protections were removed. Specifically, the States would ensure that recovery levels are met after delisting, while the Service would continue to have oversight in the significant portion of the range in northwestern Wyoming outside the National Parks unless, or until, the State has a statute and plan that adequately conserves wolves in the State and the northwestern Wyoming wolf population is delisted in a separate rulemaking. This issue is discussed further below under Factor D.

The overall causes and rates of annual wolf mortality are affected by several variables. Wolves in higher quality suitable habitat, such as remote, forested areas with few livestock (like National Parks), have higher survival rates. Wolves in unsuitable habitat and areas without substantial refugia have higher overall mortality rates. Mortality rates also vary depending on whether the wolves are resident pack members or dispersers, if they have a history with livestock depredation, or have been relocated (Bradley *et al.* 2005, p. 1506). However, overall wolf mortality has been low enough since 1987 that the wolf population in the NRM has steadily increased. The wolf population is now nearly three times as numerous as needed to meet recovery levels and is distributed throughout most suitable habitat within the DPS (Service 1987, p. 23; Service 1994, p. 1:6).

If the NRM wolf population were to be delisted, State management would likely increase the mortality rate outside National Parks, National Wildlife Refuges, and Tribal reservations, from its current level of about 26 percent annually (Smith 2005). Wolf mortality as high as 50 percent annually may be sustainable (Fuller *et al.* 2003, p. 185). Idaho and Montana have the regulatory authorization and commitment to

regulate human-caused mortality so that the wolf population remains above its numerical and distributional recovery goals. If Wyoming changes its law and management plan consistent with the Service's recommendations, it will also sufficiently regulate human-caused mortality. If no changes occur, excessive human-caused mortality as allowed under state law would alone remain a threat to wolves in a significant portion of the range in Wyoming outside the National Parks. However, if a new Wyoming regulatory framework cannot be approved by the Service, then the Act's protections will remain in effect and they will provide adequate assurance into the foreseeable future that human-caused mortality will not become a threat to wolves in all or a significant portion of their range in Wyoming. This issue is discussed further below under Factor D.

In summary, human-caused mortality to adult radio-collared wolves in the NRM, which averages about 20 percent per year (Smith 2006), still allows for rapid wolf population growth. The protection of wolves under the Act promoted rapid initial wolf population growth in suitable habitat. Idaho and Montana have committed to continue to regulate human-caused mortality so that it does not reduce the NRM wolf population below recovery levels. Idaho, Montana, Oregon, Washington, and Utah have adequate laws and regulations to ensure that the NRM wolf population remains above recovery levels (see Factor D). Each post-delisting management entity (State, Tribal, and Federal) has experienced and professional wildlife staff to ensure those commitments can be accomplished.

D. The Adequacy or Inadequacy of Existing Regulatory Mechanisms

To address this factor, we compare the current regulatory mechanisms within the proposed NRM DPS to the future mechanisms that would provide the framework for wolf management after delisting. These regulatory mechanisms are carried out by the State governments included in the DPS. Idaho and Montana's wolf management programs are designed to maintain a recovered wolf population while minimizing damage caused by it by allowing for removal of wolves in areas of chronic conflict or in unsuitable habitat. The three States with occupied habitat have proposed wolf management plans that would govern how wolves are to be managed if delisted. As discussed below, we have approved Idaho's and Montana's plans because these States have proposed management objectives that would maintain at least 10 breeding pairs and 100 wolves per State by managing for a safety margin of 15 breeding pairs in each State. We expect Wyoming to adopt a State law and wolf management plan that will adequately conserve a recovered wolf population into the foreseeable future by the time we finalize this proposed rule. However, at this time, we have been unable to approve the Wyoming law and plan because it does not provide for sustainable levels of protection (Williams 2004; 71 FR 43427–43432, August 2, 2006). Any wolf conservation by the Tribes and the States of Washington, Oregon, and Utah will be beneficial, but is not necessary to either achieving or maintaining a recovered wolf population in the NRM DPS.

Current Wolf Management

The 1980 and 1987 NRM wolf recovery plans (Service 1980, p. 4; 1987, p. 3) recognized that conflict with livestock was the major reason that wolves were extirpated and that management of conflicts was a necessary component of wolf restoration. The plans also recognized that control of problem wolves was necessary to maintain local public tolerance of wolves and that removal of some wolves would not prevent the wolf population from achieving recovery. In 1988, the Service developed an interim wolf control plan that applied to Montana and Wyoming (Service 1988, p. 1); the plan was amended in 1990 to include Idaho and eastern Washington (Service 1990, p. 1). We analyzed the effectiveness of those plans in 1999, and revised our guidelines for management of problem wolves listed as endangered (Service 1999, p. 1). Evidence showed that most wolves do not attack livestock, especially larger livestock such as adult horses and cattle, but wolf presence around livestock will result in some level of depredation (Bangs *et al.* 2005, pp. 348–350). Therefore, we developed a set of guidelines under which depredating wolves could be harassed, moved, or killed by agency officials (Service 1999, pp. 39–40). The control plans were based on the premise that agency wolf control actions would affect only a small number of wolves, but would sustain public tolerance for non-depredating wolves, thus enhancing the chances for successful population recovery (Mech 1995, pp. 276–276). Our assumptions have proven correct, as wolf depredation on livestock and subsequent agency control actions have remained at low levels, and the wolf population has expanded its distribution and numbers far beyond, and more quickly than, earlier predictions (Service 1994, p. 2:12; Service *et al.* 2006, Table 4).

The conflict between wolves and livestock has resulted in the average annual removal of 7–10 percent of the wolf population (Bangs *et al.* 1995, p. 130; Bangs *et al.* 2004, p. 92; Bangs *et al.* 2005a, pp. 342–344; Service *et al.* 2006, Tables 4, 5; Smith 2005). We estimate illegal killing removed another 10 percent of the wolf population, and accidental and unintentional human-caused deaths have removed 1 percent of the population annually (Smith 2005). Even with this level of mortality, populations have expanded rapidly (Service *et al.* 2006, Table 5). Despite the more liberal regulations, all suitable areas for wolves have been filled with resident packs (Service *et al.* 2006, Figure 1). The outer NRM wolf pack distribution has remained largely unchanged since the end of 2000 (Service *et al.* 2001–2006, Figure 1).

If the wolf population continues to expand, wolves will increasingly disperse into unsuitable areas that are intensively used for livestock production. A higher percentage of wolves in those areas will become involved in conflicts with livestock, and a higher percentage of those wolves will probably be removed to reduce future livestock damage. In 2006, about 12 percent of the NRM wolf population was removed because of conflicts with livestock but it still increased over 20 percent. Human-caused mortality would have to remove 34 percent or more of the wolf population annually before population growth would cease (Fuller *et al.* 2003, pp. 184–185). Preliminary wolf survival data from radio-telemetry studies suggests that adult wolf mortality resulting from conflict could be doubled to an average of 14–20 percent annually and still not significantly impact wolf population recovery (Smith 2005). The State management laws and plans would balance the level of wolf mortality with the recovery goals in each State.

Regulatory Assurances Within the Proposed NRM DPS

In 1999, the Governors of Montana, Idaho, and Wyoming agreed that regional coordination in wolf management planning among the States, Tribes, and other jurisdictions would be necessary to ensure timely delisting. They signed a Memorandum of Understanding to facilitate cooperation among the three States in developing adequate State wolf management plans so that delisting could proceed. In this agreement, all three States committed to maintain at least 10 breeding pairs and

100 wolves per State. The States were to develop their pack definitions to approximate the current breeding pair definition. Governors from the three States renewed that agreement in April 2002.

The wolf population in the NRM achieved its numerical and distributional recovery goals at the end of 2000. The temporal portion of the recovery goal (maintaining numerical and distributional recovery goals for the 3 consecutive years) was achieved at the end of 2002. Because the primary threat to the wolf population (human predation and other take) still has the potential to significantly impact wolf populations if not adequately managed, the Service needs regulatory assurances that the States will manage for sustainable mortality levels before we can remove the Act's protections. Therefore, we requested that the States of Montana, Idaho, and Wyoming prepare State wolf management plans to demonstrate how they would manage wolves after the protections of the Act were removed. Wolf management for the Tribes and the States of Washington, Oregon, and Utah will be beneficial, but is not necessary to either achieving or maintaining a recovered wolf population in the NRM. The Service provided varying degrees of funding and assistance to the States while they developed their wolf management plans. Several issues key to our approval of State plans include regulations that would allow regulatory control of take, a pack definition biologically consistent with the Service's definition of a breeding pair, and the ability to realistically manage State wolf populations and the number of breeding pairs above recovery levels.

The final Service determination of the adequacy of those three key State management plans was based on the combination of Service knowledge of State law, the State management plans, wolf biology, our experience managing wolves for the last 20 years, peer review of the State plans, and the States' response to peer review. Those State plans can be viewed at *http://westerngraywolf.fws.gov/.*

After our analysis of the State laws, the State plans, and other factors, the Service determined that Montana and Idaho's laws and wolf management plans were adequate to assure the Service that their share of the NRM wolf population would be maintained above recovery levels following delisting. Therefore, we approved those two State plans. However, problems with the Wyoming legislation and plan, and inconsistencies between the law and management plan, did not allow us to approve Wyoming's approach to wolf management (Bangs 2004a; Williams 2004; FR 71:43410). Though we have not approved Wyoming's current plan, we anticipate that Wyoming will revise its statute and develop a plan that we can approve prior to finalizing this proposed rule. Tribal and State management (in the portions of Washington, Oregon, and Utah included in the proposed DPS) also are discussed below. If Wyoming changes its law and management plan consistent with the Service's recommendations, it will sufficiently regulate human-caused mortality, just as the Montana and Idaho regulatory frameworks now do. If acceptable changes do not occur to the Wyoming regulatory framework, then the potential for excessive human-caused mortality as allowed under Wyoming state law would remain the lone threat to wolves in a significant portion of the range in Wyoming outside the National Parks. Therefore, if a new Wyoming regulatory framework cannot be approved by the Service, then the Act's protections will remain in effect in a significant portion of the range outside the National Parks in Wyoming and they will provide adequate assurance into the foreseeable future that human-caused mortality will not become a threat to wolves in all or a significant portion of their range in northwestern Wyoming.

Montana—The gray wolf was listed under the Montana Nongame and Endangered Species Conservation Act of 1973 (87–5–101 MCA). Senate Bill 163, passed by the Montana Legislature and signed into law by the Governor in 2001, establishes the current legal status for wolves in Montana. Upon Federal delisting, wolves would be classified and protected under Montana law as a ''Species in Need of Management'' (87–5–101 to 87–5–123). Such species are primarily managed through regulation of all forms of human-caused mortality in a manner similar to trophy game animals like mountain lions and black bears. The MFWP and the Commission would then finalize more detailed administrative rules, as is typically done for other resident wildlife, but they must be consistent with the approved Montana wolf plan and State law. Classification as a ''Species in Need of Management'' and the associated administrative rules under Montana State law create the legal mechanism to protect wolves and regulate human-caused mortality beyond the immediate defense of life/property situations. Some illegal human-caused mortality would still occur, but is to be prosecuted under State law and Commission regulations.

In 2001, the Governor of Montana appointed the Montana Wolf Management Advisory Council to advise MFWP regarding wolf management after the species is removed from the lists of Federal and State-protected species. In August 2003, MFWP completed a Final EIS and recommended that the Updated Advisory Council alternative be selected as Montana's Final Gray Wolf Conservation and Management Plan (Montana 2003, p. 131). See *http://www.fwp.state.mt.us* to view the MFWP Final EIS and the Montana Gray Wolf Conservation and Management Plan.

Under the management plan, the wolf population would be maintained above the recovery level of 10 breeding pairs by managing for a safety margin of 15 breeding pairs. MFWP would manage problem wolves in a manner similar to the control program currently being implemented in the experimental population area in southern Montana, whereby landowners and livestock producers on public land can shoot wolves seen attacking livestock or dogs, and agency control of problem wolves is incremental and in response to confirmed depredations. State management of conflicts would become more protective of wolves and no public hunting would be allowed when there were fewer than 15 breeding pairs. Wolves would not be deliberately confined to any specific areas of Montana, but their distribution and numbers would be managed adaptively based on ecological factors, wolf population status, conflict mitigation, and human social tolerance. The MFWP plan commits to implement its management framework in a manner that encourages connectivity among wolf populations in Canada, Idaho, GYA, and Montana to maintain the overall metapopulation structure. Wolf management would include population monitoring, routine analysis of population health, management in concert with prey populations, law enforcement, control of domestic animal/human conflicts, consideration of a wolf-damage compensation program, research, and information and public outreach. Montana's plan (Montana 2003, p. 132) predicts that under State management, the wolf population would increase to between 328 and 657 wolves with approximately 27 to 54 breeding pairs by 2015.

An important ecological factor determining wolf distribution in Montana is the availability and distribution of wild ungulates. Montana has a rich, diverse, and widely distributed prey base on both public and private lands. The MFWP has and will continue to manage wild ungulates according to Commission-approved policy direction and species

management plans. The plans typically describe a management philosophy that protects the long-term sustainability of the ungulate populations, allows recreational hunting of surplus game, and aims to keep the population within management objectives based on ecological and social considerations. The MFWP takes a proactive approach to integrate management of ungulates and carnivores. Ungulate harvest is to be balanced with maintaining sufficient prey populations to sustain Montana's segment of a recovered wolf population. Ongoing efforts to monitor populations of both ungulates and wolves will provide credible, scientific information for wildlife management decisions.

State regulations would allow agency management of problem wolves by MFWP and USDA–WS; take by private citizens in defense of private property; and, when the population is above 15 packs, some regulated hunting of wolves. Montana wildlife regulations allowing take in defense of private property are similar to the 2005 experimental population regulations, whereby landowners and livestock grazing permittees can shoot wolves seen attacking or molesting livestock or pets as long as such incidents are reported promptly and subsequent investigations confirm that livestock were being attacked by wolves. The MFWP has enlisted and directed USDA–WS in problem wolf management, just as the Service has done since 1987.

When the Service reviewed and approved the Montana wolf plan, we stated that Montana's wolf management plan would maintain a recovered wolf population and minimize conflicts with other traditional activities in Montana's landscape. The Service has every confidence that Montana would implement the commitments it has made in its current laws, regulations, and wolf plan. In June 2005, MFWP signed a Cooperative Agreement with the Service, and it now manages all wolves in Montana subject to general oversight by the Service.

Idaho—The Idaho Fish and Game Commission (Idaho Commission) has authority to classify wildlife under Idaho Code 36–104(b) and 36–201. The gray wolf was classified as endangered by the State until March 2005, when the Idaho Commission reclassified the species as a big game animal under Idaho Administrative Procedures Act (13.01.06.100.01.d). The big game classification would take effect upon Federal delisting, and until then, wolves will be managed under Federal status. As a big game animal, State regulations would adjust human-caused wolf mortality to ensure recovery levels are exceeded. Title 36 of the Idaho statutes currently has penalties associated with illegal take of big game animals. These rules are consistent with the legislatively adopted Idaho Wolf Conservation and Management Plan (IWCMP) (IWCMP 2002) and big game hunting restrictions currently in place. The IWCMP states that wolves will be protected against illegal take as a big game animal under Idaho Code 36–1402, 36–1404, and 36–202(h).

The IWCMP was written with the assistance and leadership of the Wolf Oversight Committee established in 1992 by the Idaho Legislature. Many special interest groups including legislators, sportsmen, livestock producers, conservationists, and IDFG personnel were involved in the development of the IWCMP. The Service provided technical advice to the Committee and reviewed numerous drafts before the IWCMP was finalized. In March 2002, the IWCMP was adopted by joint resolution of the Idaho Legislature. The IWCMP can be found at: *http://www.fishandgame.idaho.gov/cms/wildlife/wolves/wolf_plan.pdf.*

The IWCMP calls for IDFG to be the primary manager of wolves after delisting; like Montana, to maintain a minimum of 15 packs of wolves to maintain a substantial margin of safety over the 10 breeding pair minimum; and to manage them as a viable self-sustaining population that will never require relisting under the Act. Wolf take would be more liberal if there are more than 15 packs and more conservative if there are fewer than 15 packs in Idaho. The wolf population would be managed by defense of property regulations similar to those now in effect under the Act. Public harvest would be incorporated as a management tool when there are 15 or more packs in Idaho to help mitigate conflicts with livestock producers or big game populations that outfitters, guides, and others hunt. The IWCMP allows IDFG to classify the wolf as a big game animal or furbearer, or to assign a special classification of predator, so that human-caused mortality can be regulated. In March 2005, the Idaho Commission proposed that, upon delisting, the wolf would be classified as a big game animal with the intent of managing wolves similar to black bears and mountain lions, including regulated public harvest when populations are above 15 packs. The IWCMP calls for the State to coordinate with USDA–WS to manage depredating wolves depending on the number of wolves in the State. It also calls for a balanced educational effort.

Elk and deer populations are managed to meet biological and social objectives for each herd unit according to the State's species management plans. The IDFG will manage both ungulates and carnivores, including wolves, to maintain viable populations of each. Ungulate harvest would be focused on maintaining sufficient prey populations to sustain viable wolf and other carnivore populations and hunting. IDFG has conducted research to better understand the impacts of wolves and their relationships to ungulate population sizes and distribution so that regulated take of wolves can be used to assist in management of ungulate populations and vice versa.

The Mule Deer Initiative in southeast Idaho was implemented by IDFG in 2005, to restore and improve mule deer populations. Though most of the initiative lies outside current wolf range and suitable wolf habitat in Idaho, improving ungulate populations and hunter success will decrease negative attitudes toward wolves. When mule deer increase, some wolves may move into the areas that are being highlighted under the initiative. Habitat improvements within much of southeast Idaho would focus on improving mule deer conditions. The Clearwater Elk Initiative also is an attempt to improve elk numbers in the area of the Clearwater Region in north Idaho where currently IDFG has concerns about the health of that once-abundant elk herd.

Wolves are currently classified as endangered under Idaho State law, but if delisted under the Act, they would be classified and protected as big game under Idaho fish and game code. Human-caused mortality would be regulated as directed by the IWCMP to maintain a recovered wolf population. The Service has every confidence that Idaho would implement the commitments it has made in its current laws, regulations, and wolf plan. In January 2006, the Governor of Idaho signed a Memorandum of Understanding with the Secretary of the Interior that provided the IDFG the power to manage all Idaho wolves.

Wyoming—In 2003, Wyoming passed a very specific and detailed State law that would designate wolves as ''trophy game'' in YNP, Grand Teton National Park, John D. Rockefeller Memorial Parkway, and the adjacent USFS-designated Wilderness Areas once the wolf is delisted from the Act. Wolves in other portions of the State would alternate back-and-forth between ''trophy game'' and ''predatory animal'' status based on oscillating population numbers.

A large portion of the area permanently designated as ''trophy game'' actually has little to no value to wolf packs because it is not suitable habitat for wolves and, thus, is rarely used (GYA wilderness, and much of eastern and southern YNP) (Jimenez 2006c). For example, many of the wilderness areas are rarely used by wolves because of their high elevation, deep snow, and low ungulate productivity. The ''trophy game'' status would allow the Wyoming Game and Fish Commission (Wyoming Commission) and Wyoming Game and Fish Department (WGFD) to regulate methods of take, hunting seasons, types of allowed take, and numbers of wolves that could be killed.

The State law requires that when there are 7 or more wolf packs in Wyoming ''primarily'' (this term is undefined) outside of National Park/Wilderness Areas or there are 15 or more wolf packs anywhere in Wyoming, all wolves in Wyoming outside of the National Park/Wilderness units would be classified as predatory animals. When wolves are classified as a ''predatory animal'' they are under the jurisdiction of the Wyoming Department of Agriculture and may be taken by anyone, anywhere in the predatory animal area, at any time, without limit, and by any means (including shoot-on-sight; baiting; possible limited use of poisons; bounties and wolf-killing contests; locating and killing pups in dens including use of explosives and gas cartridges; trapping; snaring; aerial gunning; and use of other mechanized vehicles to locate or chase wolves down). Wolves are very susceptible to unregulated human-caused mortality, which would be the situation if they were to be designated as predatory animals. Wolves are unlike coyotes in that wolf behavior and reproductive biology results in wolves being extirpated in the face of extensive human-caused mortality. These types and levels of take would most likely prevent wolf packs from persisting in areas of Wyoming where they are classified as predatory, even in otherwise suitable habitat.

Wolves in other parts of Wyoming could be classified as trophy game only when populations dipped below 7 packs outside of the National Park/Wilderness units and there were fewer than 15 packs in Wyoming. When this situation occurs, the Wyoming Commission would determine how large an area to designate as trophy game in order to reasonably ensure seven packs are located in Wyoming, primarily outside the National Park/Wilderness units, at the end of the calendar year. Moreover, because many southern and eastern YNP packs leave the National Park/Wilderness Areas in winter and regularly utilize habitat on non-wilderness public lands and some private lands, these packs would be subject to unregulated and unlimited human-caused mortality to the extent wolves are classified as predatory in these lands. Wolf packs are highly territorial and are reluctant to trespass on other pack territories (Mech and Boitani 2003, p. 19–34). A distribution of wolf packs outside Yellowstone National Park may be necessary to act as a biological fence to reduce Park pack movements out of the Park. If packs outside the Park are removed, that may cause their in-Park neighbors to investigate their absence, and thus expose those Park packs to the same mortality sources that removed their neighbors. The security of Park packs may partly rely on having at least one layer of neighboring packs outside the Park Units.

The above restrictions present the very real possibility that Wyoming would not be able to maintain its share of a recovered wolf population, despite Wyoming's proposal to default to trophy game status when wolf populations get below 15 packs (defined as simply 5 wolves traveling together at any time of year). For example, in 2004, under Wyoming Law, the YNP wolf population (171 wolves in 16 confirmed breeding pairs) would have triggered predatory status outside the National Parks/Wilderness Areas and allowed for the elimination of all wolf packs outside YNP (89 wolves in 8 breeding pairs) (Service *et al.* 2005, Figure 3). In 2005, disease and other factors caused a natural reduction of the YNP wolf population to 118 wolves in 7 breeding pairs (Service *et al.* 2006, Table 4). The year 2005 marked the first time successful wolf packs outside the National Park/Wilderness Areas (134 wolves in 9 breeding pairs) contributed more to Wyoming's overall share of the recovered NRM wolf population than those in YNP (118 wolves in 7 breeding pairs) (Service *et al.* 2005, Table 2; 2006, Table 2). However, if all wolves outside the National Parks/Wilderness Areas had been eliminated in 2004 or early 2005, as allowed by state law, the Wyoming segment of the NRM wolf population would have fallen 3 breeding pairs below the 10 breeding pair recovery level in Wyoming by the end of 2005 (Service *et al.* 2006, Table 2).

The State law and plan (WGFD 2003) calls for intensive monitoring using standard methods and a review of the Wyoming wolf population's status every 90 days. While WGFD would have authority to manage wolves when they are classified as trophy game, that authority would end if the number of packs increased to 15 in the State or if there were 7 packs primarily outside the National Park/Wilderness units (even if there were fewer than 15 packs in the State). In essence, as soon as WGFD met their management objective, their management authority would be removed by State law within a maximum of 90 days. Every time the wolf population exceeded the minimum levels, all wolves outside the National Park/Wilderness units would be designated as predatory animals and would be subjected to unregulated human-caused mortality which could drive the wolf population back down to, or below, the minimum level. We believe the real potential for fluctuating between predatory animal status and trophy game status would result in a program that would be nearly impossible to administer and enforce because of widespread public confusion about the changing wolf status. Attempting to manage a wolf population that is constantly maintained at minimum levels would likely result in the wolf population falling below recovery levels due to factors beyond WGFD's control.

An essential element to achieving the Service's recovery goal is our definition of a breeding pair: An adult male and an adult female wolf that have produced at least two pups during the previous breeding season that survived until December 31 of that year. Wyoming State law defined a pack as simply five wolves traveling together regardless of the group's composition. According to this definition, these wolves could be with or without offspring and could be traveling together at any time of year. The Wyoming plan adopted the same definition of pack that is in State law. Wyoming's State law and management plan also allows a pack of 10 or more wolves with 2 or 3 breeding females to count as 2 or 3 packs, respectively. The Wyoming definition of a pack and the 90-day evaluation of population status is inconsistent with wolf biology and how the Service, Montana, and Idaho has, and will, measure wolf population recovery. Wolf packs only breed and produce young once a year (April), so a wolf population can only increase once a year. If a pack's breeding adults are killed between February and April, the pack will not produce young for at least another year. If pups are killed, no more will be produced for another year. The Wyoming definition of a wolf pack would lead to greater use of the

predatory animal designation and a minimal wolf population going into summer, when diseases and most human-caused wolf mortality occur, including that which WGFD could not regulate (control and illegal killing) even under trophy game status. For instance, there might be 15 groups of 5 or more wolves (which may or may not be ''breeding pairs'') going into summer, but as human-caused mortality and other mortality factors continued to operate, the population could decline below recovery levels at a time when the only opportunity for the population to recover that year had passed.

Making this problem worse, Wyoming could well be overestimating the number of breeding pairs. Wyoming incorrectly used, as the Service initially did, a linear regression to predict a relationship between wolf group size and its potential to be a breeding pair. This was mathematically incorrect and greatly overestimated wolf breeding pairs in Wyoming, because the relationship is logistic (Ausband 2006). Wyoming data show that groups of 5 wolves traveling together in winter only have a 0.56 probability of being a breeding pair in Wyoming (Ausband 2006). Thus, 15 groups of 5 wolves of unknown status that are traveling together in winter is only equal to 8.4 breeding pairs. This could lead Wyoming to trigger predatory status with only 8.4 breeding pairs, a level below recovery goals.

Consider the following examples. First, in 1999 and 2005, pup production and survival declined significantly (Service *et al.* 2000, Table 2; 2006, Table 2). Because few pups survived, five wolves traveling together in winter would not have equated to an adult male and female with two pups on December 31. Second, from 2002 to 2005, mange infested some packs in Montana and Wyoming causing them not to survive the winter (mange can lead to mortality from exposure during severe winter weather or secondary infections (Kreeger 2003, pp. 207–208). In this situation, if five wolves traveling together in summer or fall (instead of mid-winter) had mange, it would be unreasonable to rely on them as a breeding pair since they would be unlikely to survive until December 31. Third, conflict between the Service definition of a breeding pair and Wyoming's definition would result in over-counting the number of packs and overuse of predatory status. For example, by the end of 2005 there were 16 breeding pairs in Wyoming, but, under Wyoming's definition (even if it were used in mid-winter) there would have been 24 packs counted as breeding pairs, an overestimate of 50 percent. If Wyoming had been managing for 15 ''packs'' as they define them (by declaring predatory status outside of the National Park/Wilderness units), fewer than 10 actual ''breeding pairs'' would have been left in Wyoming.

The State wolf management plan (WGFD 2003) generally attempts to implement the State law, with some notable exceptions. Those exceptions make the plan appear more likely to conserve the wolf population above recovery levels than the law allows. Recognizing these inconsistencies, the WGFD Director requested that the Wyoming Attorney General's Office review Wyoming law regarding the classification of gray wolves as trophy game animals (O'Donnell 2003). The Attorney General's response stated that ''the plain language of the Enrolled Act is in conflict and thus suffers from internal ambiguity.'' The letter states:

> The noted ambiguities arise when there are either: (1) Less than seven (7) packs outside of the Parks, but at least fifteen (15) packs in the state, including the Parks; or, (2) at least seven (7) packs outside the Parks, but less than fifteen (15) packs in the state, including the Parks.
>
> W.S. § 23–1–304(b)(ii) states that the Commission shall maintain so-called ''dual'' classification, that is, maintain classification of the gray wolf as a predatory animal ''if it determines there were at least seven (7) packs of gray wolves * * * primarily outside of [the Parks] * * * or at least fifteen (15) packs within this state, including [the Parks]. * * *'' (Emphasis added). If this sentence is read without consideration of the stated legislative goals, the following scenarios can occur:
>
> Scenario #1: 10 packs inside the Parks & 5 packs outside the Parks. Classify as a predatory animal because at least 15 packs in the state.*This scenario leaves less than 7 packs outside of the Parks.*
>
> Scenario #2: 3 packs inside the Parks & 10 packs outside the Parks. Classify as a predatory animal because at least 7 packs outside the Parks. *This scenario leaves less than 15 packs total in the state.*
>
> These scenarios defeat the clearly identified legislative goals of maintenance of fifteen (15) packs in the state and maintenance of seven (7) packs outside the Parks.

The letter concludes:

> The goals specified by the legislation may be preserved if W.S. 23–1–304(b) is construed in light of those legislatively defined goals. Stated another way, the language of W.S. 23–1–304(b) must not be read so restrictively as to prevent the Game and Fish Department from crafting a state management plan for gray wolves which achieves delisting and satisfies the other stated legislative goals. The alternative interpretation, constructing the language of W.S. 23–1–304(b) in its most restrictive light, will defeat these clearly identified legislative goals. Such a result would be contrary to Wyoming law. Should the legislature decide to endorse or change the result reached as a result of the current statutory language, it will in all likelihood have an opportunity to do so before delisting is complete.

The Wyoming Attorney General's Office thus determined that the Wyoming State law is internally inconsistent as a key operative provision (the requirement in ′23–1–304(b)(ii)) to classify gray wolves as predatory if there are at least 7 packs primarily outside the Parks or at least 15 packs within the entire State) conflicts with the legislative purpose of providing appropriate management to facilitate delisting of the wolf. The Attorney General's Office concluded that ′23–1–304(b) should be construed in light of this legislative goal to allow WGFD to craft a management plan that is inconsistent with the predatory animal classification requirements of ′304(b) if that is what is needed to prepare a plan that would achieve delisting. Notwithstanding the Attorney General's opinion, we are concerned that WGFD would have no authority to act contrary to the categorical requirements of an operative provision of the State law.

Furthermore, in the fall of 2003, the Service, in cooperation with the affected States, selected 12 recognized North American experts in wolf biology and management to review the Montana, Idaho, and Wyoming State wolf management plans. Eleven reviews were completed. While Wyoming's Plan was thought to be the most extreme in terms of wolf control and minimizing wolf numbers and distribution, some reviewers thought it was adequate, primarily because they (1) assumed in error that the Wyoming definition of a pack was equivalent to the Service's current breeding pair standard (Ausband 2006), (2) thought that YNP was likely to carry most of Wyoming's portion of the wolf population, and (3) assumed that the commitments in the Plan could be implemented under State law. As noted above, the Service now views these three assumptions as unrealistic.

Other important developments since these peer reviews include: recent Federal District court rulings emphasizing consideration of suitable habitat in calculating the significant portion of the range occupied by wolves, the decline of YNP wolves, and an improved method of estimating wolf population status. This new methodology demonstrates that earlier attempts to correlate pack size in winter with the probability of being a breeding pair were mathematically incorrect and

are clearly inconsistent with both the Service's previous and current breeding pair standards.

The potential success of the current Wyoming law and wolf plan to maintain its share of wolves in the NRM is greatly dependent on YNP having at least eight breeding pairs. However, recent experience tells us this is an unrealistic expectation. In 2005, wolf numbers substantially declined in YNP (Service *et al.* 2006, Table 2). The CPV and/or distemper are suspected of causing low pup survival in YNP, and pack conflicts over territory appear to have reduced the number of wolves and packs in YNP from 16 breeding pairs and 171 wolves in 2004, to 7 breeding pairs and 118 wolves in 2005 (Service *et al.* 2006, Table 2). In 2005, if each group of 5 or more wolves had been counted as a pack as Wyoming law defines a pack, there would have been a total of 24 ''packs'' in Wyoming: 11 inside YNP, and 13 outside YNP. It is likely that predatory animal status, if it had been implemented prior to the end of 2005, would have quickly reduced or eliminated the number and size of wolf packs outside YNP going into the summer and fall of 2005. The Wyoming segment of the wolf population would most likely have fallen below 10 breeding pairs (to only the 7 breeding pairs in YNP), and the distribution of wolf packs in suitable habitat in Wyoming outside the National Park/Wilderness units would have been significantly reduced. This could have occurred because the State definition of five wolves traveling together as constituting a pack would have prevented the Wyoming Commission from enlarging the area designated as trophy game even though there could have been only seven breeding pairs in the State. Also, Wyoming would have counted most wolf packs in YNP as breeding pairs even though they were not because they experienced reproductive failure in 2005.

Wyoming State law allows no regulation of human-caused mortality until the population falls below 7 packs outside the Parks and there are less than 15 packs in Wyoming. The Wyoming Petition's claim that such extensive removal of wolves is unlikely, even if they receive no legal protection, is not supported given the past history of wolf extirpation. The WGFD needs to be given the regulatory authority to adaptively manage the species throughout suitable habitat in Wyoming, outside of the National Park/Wilderness units, to account for wide fluctuations in wolf population levels.

In conclusion, Wyoming State law defines a wolf pack in a manner that has little biological relationship to wolf recovery goals or population viability, minimizes opportunities for adaptive professional wildlife management by WGFD, confines wolf packs primarily to YNP, depends on at least eight National Park/Wilderness wolf packs to constitute most of the wolves in Wyoming, minimizes the number and distribution of wolves and wolf packs outside the National Park/Wilderness Areas, and could lead the Wyoming wolf population to quickly slide below recovery goals. Additionally, Wyoming State law would prohibit WGFD from responding in a timely and effective manner should modification in State management of wolves be needed to prevent the population from falling below the recovery levels of at least 10 breeding pairs and 100 wolves for each of the 3 core States. Based on these inadequacies, the Service cannot reasonably be assured that Wyoming's State law would allow its wolf management plan to maintain the Wyoming segment of the wolf population above recovery levels or maintain an adequate distribution of the Wyoming segment of the tri-State wolf population. We conclude that the NRM wolf population is not threatened or endangered in a significant portion of its range except for that significant portion of its range outside the National Parks in northwestern Wyoming. Wyoming state regulatory mechanisms in such areas are inadequate to prevent excessive human-caused mortality from reducing that segment of the wolf population in that significant portion of its range below its recovery levels. However, retention of the Act's protections, should Wyoming fail to enact an adequate statute and plan, will assure that the segment of the NRM wolf population in Wyoming outside the National Parks will not become threatened or endangered in the foreseeable future.

Future Service approval of a regulatory framework for wolf management in Wyoming—The Service and Wyoming have continued to discuss approaches to post-delisting wolf management in Wyoming that would address our respective concerns and allow the Service to approve Wyoming's wolf management strategy. Ideas under consideration by the Wyoming legislature in the 2006 session includes; (1) The concept of a state Trophy Game Area large enough to adequately support the wolf population levels required for Wyoming, with predator status (with mandatory reporting of all take) in the remainder of the State; (2) acknowledgement that the State would manage for 15 breeding pairs in mid-winter and that the State's responsibility is 7 breeding pairs outside the National Parks, based on the assumption that segment of the Wyoming wolf population will be supplemented by 8 breeding pairs living on lands managed by the National Park Service; and, (3) that the State of Wyoming would be responsible for assuring that the absolute minimum of 10 breeding pairs and 100 wolves required to achieve Wyoming's share of the overall wolf recovery goal would be conserved. If such a regulatory framework was established by Wyoming law and was to be implemented by a Wyoming state plan, the Service intends to approve it. In addition, there are assurances from the National Park Service that adequate monitoring of wolf packs within Park managed properties will continue and that information will continue to be readily shared between the National Park Service and Wyoming. Acceptance of an adequate regulatory framework in Wyoming by the Service would allow Wyoming residents to have increased flexibility under the provisions of the 2005 experimental population regulations (FR 70:1286–1311, Jan 2005) for problem wolf management and would allow the Service to finalize delisting for that portion of the NRM DPS wolf population in Wyoming.

The recovery goal for the NRM wolf population requires that it be comprised of at least 30 breeding pairs and 300 wolves that are equitably distributed in potentially suitable habitat in Montana, Idaho, and Wyoming. To ensure this goal is achieved, each of the three States (Wyoming, Montana, and Idaho) committed to manage for an equitable distribution of the overall population and assume a management target of 15 breeding pairs in mid-winter within each State. The 15 breeding pair management target was not intended to be the minimum goal for each State. It was an objective so that each State's management would provide a reasonable cushion to ensure each State's share of the wolf population did not fall below the 10 breeding pairs requirement and that the 30 breeding pairs minimum would always be met or exceeded. Within Wyoming, the 15 breeding pair management target would be divided between lands where wildlife are managed by the National Park Service and lands where the Wyoming Game and Fish Department (WYGF) had primary management responsibility. Under the current proposal, the WYGF's responsibility for the overall 15 breeding pair target would be 7 breeding pairs in mid-winter

outside the National Park Units in Wyoming. We assume that the remaining 8 breeding pairs will be supported primarily on National Park Service lands. That said, the minimum recovery goal for the State of Wyoming of 10 breeding pairs must always be met or exceeded. Therefore, in the unlikely event that the wolf population within properties managed by the National Park Service ever dropped below a level that jeopardized Wyoming's recovery objective, additional management responsibility by the State of Wyoming may be required to avoid emergency listing actions.

State regulations would be enacted to ensure that wolves would be managed to prevent the need for relisting in the future. Therefore, the State of Wyoming would designate wolves as a Trophy Game Species within an area similar to that defined below which is capable of supporting at least 15 breeding pairs (USFWS *et al.* 2006, Figure 3). The area under consideration in northwestern Wyoming is approximately that beginning at the junction of U.S. Highway 120 and the Wyoming/Montana State line; running southerly along state Highway 120 to the Greybull River; southwesterly up said river to the Wood River; running southwesterly up said river to the U.S. Forest Service boundary; following the U.S. Forest Service boundary southerly to the northern boundary of the Wind River Indian Reservation; following the Reservation boundary westerly, then southerly across U.S. Highway 26/287 to the Continental Divide; following the Continental Divide southeasterly to Middle Fork of Boulder Creek; following the Middle Fork of Boulder Creek and then Boulder Creek westerly to the U.S. Forest Service boundary; following the U.S. Forest Service boundary northwesterly to its intersection with U.S. Highway 189/91; following U.S. Highway 189/91 northwesterly to the intersection with Wyoming state highway 22 in the town of Jackson; following Wyoming state highway 22 westerly to the Wyoming/Idaho State line.

Within the Trophy Game Area, WYGF would have management control over the species outside the National Parks and would manage problem wolves and set harvest regulations in such a way as to assure that the targets of 15 breeding pair for the State and 7 breeding pairs in Wyoming outside the National Park Units are met. Outside of the Trophy Game Area, the State of Wyoming would manage the species as predatory animals but would monitor the take of all wolves under the State's predatory animal status.

If this type of regulatory framework was enacted by Wyoming state law and its wolf management plan it would provide assurance that Wyoming's share of the tri-state NRM wolf population would be maintained above recovery levels into the foreseeable future and that a significant portion of the range in Wyoming was occupied by wolf packs. This type of management framework is consistent in its general principles to those already enacted and accepted as being adequate regulatory frameworks for wolves post-delisting in the states of Minnesota, Michigan, Wisconsin, Montana, and Idaho and would provide adequate assurances that a viable wolf population will be maintained in the NRM DPS.

Washington—Wolves in Washington are listed as endangered under the State's administrative code (WAC 232.12.014; these provisions may be viewed at: *http://apps.leg.wa.gov/wac/*). Under Washington's administrative code (WAC 232.12.297), ''endangered'' means any wildlife species native to the State of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the State. Endangered species in the State of Washington are protected from hunting, possession, and malicious harassment, unless such taking has been authorized by rule of the Washington Fish and Wildlife Commission (RCW 77.15.120; these provisions can be viewed at: *http://apps.leg.wa.gov/rcw/*). If the NRM DPS is delisted, those areas in Washington included in the NRM DPS would remain listed as endangered by Washington State law until the wolf was no longer seriously threatened with extinction throughout all or a significant portion of its range within the State. The areas in Washington not included in the NRM DPS would remain listed as endangered under both State and Federal law.

Although we have received reports of individual and wolf family units in the North Cascades of Washington (Almack and Fitkin 1998), agency efforts to confirm them were unsuccessful and to date, no individual wolves or packs have ever been documented there (Boyd and Pletscher 1999; Boyd 2006). Intervening unsuitable habitat makes it highly unlikely that wolves from the NRM population have dispersed to the North Cascades of Washington in recent history.

There is currently no Washington State recovery or management plan for wolves, but the State has established an advisory committee and is preparing a plan. Interagency Wolf Response Guidelines are being developed by the Service, WDFW, and USDA–WS to provide a checklist of response actions for five situations that may arise in the future. Wolf management in Washington is likely to be beneficial to the NRM wolf population, but is not necessary for achieving or maintaining a population of wolves in the NRM DPS that is unlikely to become threatened or endangered in the foreseeable future.

Oregon—The gray wolf has been classified as endangered under the Oregon Endangered Species Act (ORS 496.171–192) since 1987. The law requires the Oregon Fish and Wildlife Commission to conserve the species in Oregon. Anticipating the reestablishment of wolves in Oregon from the growing Idaho population, the Commission directed the development of a wolf conservation and management plan to meet the requirements of both the Oregon Endangered Species Act and the Oregon Wildlife Policy. The ORS 496.012 states in relevant part: ''It is the policy of the State of Oregon that wildlife shall be managed to prevent serious depletion of any indigenous species and to provide the optimum recreational and aesthetic benefits for present and future generations of the citizens of this state.''

In February 2005, the Oregon Fish and Wildlife Commission adopted the Oregon Wolf Conservation and Management Plan. The plan was built to meet the five delisting criteria identified in State statutes and administrative rules: (1) The species is not now (and is not likely in the foreseeable future to be) in danger of extinction in any significant portion of its range in Oregon or in danger of becoming endangered; (2) the species' natural reproductive potential is not in danger of failure due to limited population numbers, disease, predation, or other natural or human-related factors affecting its continued existence; (3) most populations are not undergoing imminent or active deterioration of range or primary habitat; (4) overutilization of the species or its habitat for commercial, recreational, scientific, or educational purposes is not occurring or likely to occur; and (5) existing State or Federal programs or regulations are adequate to protect the species and its habitat.

The Plan describes measures the Oregon Department of Fish and Wildlife (ODFW) will take to conserve and manage the species. This includes actions that could be taken to protect livestock from wolf depredation and address human safety concerns. The following summarizes the primary components of the plan:

- Wolves that naturally disperse into Oregon will be conserved and managed under the plan. Wolves will not be

captured outside of Oregon and released in the State.

• Wolves may be considered for Statewide delisting once the population reaches four breeding pairs for 3 consecutive years in eastern Oregon (note—the boundary between east and west wolf management zones is defined by U.S. Highway 97 from the Columbia River to the junction of U.S. Highway 20, southeast on U.S. Highway 20 to the junction with U.S. Highway 395, and south on U.S. Highway 395 to the California border). Four breeding pairs are considered the minimum conservation population objective, also described as Phase 1. The plan calls for managing wolves in western Oregon, as if the species remains listed, until the western Oregon wolf population reaches four breeding pairs. This means, for example, that a landowner would be required to obtain a permit to address depredation problems using injurious harassment.

• While the wolf remains listed as a State endangered species, the following will be allowed: (1) Wolves may be harassed (e.g., shouting, firing a shot in the air) to distract a wolf from a livestock operation or area of human activity; (2) harassment that causes injury to a wolf (e.g., rubber bullets or bean bag projectiles) may be employed to prevent depredation, but only with a permit; (3) wolves may be relocated to resolve an immediate localized problem from an area of human activity (e.g., wolf inadvertently caught in a trap) to the nearest wilderness area; (4) relocation will be done by ODFW or USDA–WS personnel; (4) livestock producers who witness a wolf ''in the act'' of attacking livestock on public or private land must have a permit before taking any action that would cause harm to the wolf; and (5) wolves involved in chronic depredation may be killed by ODFW or USDA–WS personnel; however, nonlethal methods will be emphasized and employed first in appropriate circumstances.

• Once the wolf is delisted, more options are available to address wolf-livestock conflict. While there are five to seven breeding pairs, landowners may kill a wolf involved in chronic depredation with a permit. Five to seven breeding pairs is considered the management population objective, or Phase 2.

• Under Phase 3 a limited controlled hunt could be allowed to decrease chronic depredation or reduce pressure on wild ungulate populations.

• The plan provides wildlife managers with adaptive management strategies to address wolf predation problems on wild ungulates if confirmed wolf predation leads to declines in localized herds.

• In the unlikely event that a person is attacked by a wolf, the plan describes the circumstances under which Oregon's criminal code and the Federal Act would allow harassing, harming or killing of wolves where necessary to avoid imminent, grave injury. Such an incident must be reported to law enforcement officials.

• A strong information and education program is proposed to ensure anyone with an interest in wolves is able to learn more about the species and stay informed about wildlife management activities.

• Several research projects are identified as necessary for future success of long-term wolf conservation and management. Monitoring and radio-collaring wolves are listed as critical components of the plan both for conservation and communication with Oregonians.

• An economic analysis provides estimates of costs and benefits associated with wolves in Oregon and wolf conservation and management.

• Finally, the plan requires annual reporting to the Commission on program implementation.

The Oregon Wolf Management Plan, as approved by the Oregon Fish and Wildlife Commission in February 2005, called for three legislative actions which the 2005 Oregon Legislative Assembly considered, but did not adopt. These actions were: (1) Changing the legal status of the gray wolf from protected non-game wildlife to a ''special status mammal'' under the ''game mammal'' definition in ORS 496.004; (2) amending the wildlife damage statute (ORS 498.012) to remove the requirement for a permit to lethally take a gray wolf caught in the act of attacking livestock; and (3) creating a State-funded program to pay compensation for wolf-caused losses of livestock and to pay for proactive methods to prevent wolf depredation. As a result, the Fish and Wildlife Commission is currently going through a public review process to amend the Oregon Plan and discuss legislative proposals. The Commission remains on record as calling for those legislative enhancements; however, implementation of the Oregon Plan does not depend upon them.

Under the Oregon Wolf Management Plan, the gray wolf will remain classified as endangered under State law until the conservation population objective for eastern Oregon is reached (*i.e.*, four breeding pairs for 3 consecutive years). Once the objective is achieved, the State delisting process will be initiated. Following delisting from the State Endangered Species Act, wolves will retain their classification as nongame wildlife under ORS 496.375. If a legislative change is made to reclassify the gray wolf as a ''special status mammal'' under the ''game mammal'' definition in Oregon, the Commission will retain the authority to regulate (and, where appropriate, prohibit) take of the wolf as necessary.

Utah—If federally delisted, wolves in that portion of the NRM DPS in Utah would remain listed as protected wildlife under State law. In Utah, wolves fall under three layers of protection—(1) State code, (2) Administrative Rule and (3) Species Management Plan. The Utah Code can be found at *http://www.le.state.ut.us/~code/TITLE23/TITLE23.htm*.

The relevant administrative rules that restrict wolf take can be found at *http://www.rules.utah.gov/publicat/code/r657/r657–003.htm* and *http://www.rules.utah.gov/publicat/code/r657/r657–011.htm*. These regulations restrict all potential taking of wolves in Utah, including that portion in the NRM DPS. Wolf management in Utah will have no effect on the recovered wolf population that resides in suitable habitat in Montana, Idaho, and Wyoming.

In 2003, the Utah Legislature passed House Joint Resolution 12 (HJR–12), which directed the Utah Division of Wildlife Resources (UDWR) to draft a wolf management plan for ''the review, modification and adoption by the Utah Wildlife Board, through the Regional Advisory Council process.'' In April 2003, the Utah Wildlife Board directed UDWR to develop a proposal for a wolf working group to assist the agency in this endeavor. The UDWR created the Wolf Working Group in the summer of 2003. The Wolf Working Group is composed of 13 members that represent diverse public interests regarding wolves in Utah.

On June 9, 2005, the Utah Wildlife Board passed the Utah Wolf Management Plan (Utah 2005). The goal of the Plan is to manage, study, and conserve wolves moving into Utah while avoiding conflicts with the elk and deer management objectives of the Ute Indian Tribe; minimizing livestock depredation; and protecting wild ungulate populations in Utah from excessive wolf predation. The Utah Plan can be viewed at *http://www.wildlife.utah.gov/wolf/*. Its purpose is to guide management of wolves in Utah during an interim period from Federal delisting until 2015, or until it is determined that wolves have become established in Utah, or the assumptions of the plan (political, social, biological, or legal) change. During this interim

period, immigrating wolves will be studied to determine where they are most likely to settle without conflict.

Tribal Plans—Approximately 20 Tribes are within the proposed NRM DPS. Currently no wolf packs live on, or are entirely dependent on Tribal lands for their existence in the NRM DPS. In the NRM DPS about 32,942 km ^{2} (12,719 mi ^{2}) (3 percent) of the area is Tribal land. In the NRM wolf occupied habitat, about 4,696 km ^{2} (1,813 mi ^{2}) (2 percent) is Tribal land (Service 2006; 71 FR 6645, February 8, 2006). Therefore, while Tribal lands can contribute some habitat for wolf packs in the NRM, they will be relatively unimportant to maintaining a recovered wolf population in the NRM DPS. Many wolf packs live in areas of public land where Tribes have various treaty rights, such as wildlife harvest. Montana and Idaho propose to incorporate Tribal harvest into their assessment of the potential surplus of wolves available for public harvest in each State, each year, to ensure that the wolf population is maintained above recovery levels. Utilization of those Tribal treaty rights will not significantly impact the wolf population or reduce it below recovery levels because a small portion of the wolf population could be affected by Tribal harvest or lives in areas subject to Tribal harvest rights.

The overall regulatory framework analyzed in this proposed rule depends entirely on State-led management of wolves that are primarily on lands where resident wildlife is traditionally managed primarily by the States. Any wolves that may establish themselves on Tribal lands will be in addition to those managed by the States outside Tribal reservations. At this point in time, only the Nez Perce Tribe has a Service approved wolf management plan, but that plan only applied to listed wolves, and it was reviewed so the Service could determine if the Tribe could take a portion of the responsibility for wolf monitoring and management in Idaho under the 1994 special regulation under section 10(j). No other Tribe has submitted a wolf management plan. In November 2005, the Service requested information from all the Tribes in the NRM regarding their Tribal regulations and any other relevant information regarding Tribal management or concerns about wolves (Bangs 2004). All responses were reviewed, and Tribal comments were incorporated into this proposed rule.

Summary

Montana and Idaho have proposed to regulate wolf mortality over conflicts with livestock after delisting in a manner similar to that used by the Service to reduce conflicts with private property, and that would promote the maintenance of wolf populations above recovery levels. These two State plans have committed to using a definition of a wolf pack that would approximate the Service's current breeding pair definition. Based on that definition, they have committed to maintaining at least 10 breeding pairs and 100 wolves per State by managing for a safety margin of 15 breeding pairs in each State. These States are to control problem wolves in a manner similar to that used by the Service (1988, p. 8; 1994, pp. 2, 9–12; 1999, pp. 39–40; 70 FR 1306–1311, January 6, 2005) and use adaptive management principles to regulate and balance wolf population size and distribution with livestock conflict and public tolerance. When wolf populations are above State management objectives for 15 breeding pairs, wolf control measures may be more liberal. When wolf populations are below 15 breeding pairs, wolf control as directed by each State will be more conservative.

Current Wyoming law provides a definition of pack that is not consistent with the Service's definition of a breeding pair. In addition, Wyoming uses the State definition of pack in a complicated structure for determining when wolves are protected under the regulatory mechanisms of the ''trophy game'' status and absent management structure under the ''predatory animal'' status. Wyoming's plan does not provide for sufficient regulatory control to balance wolf population size and distribution with livestock conflict and public tolerance. If Wyoming adopts a State management plan that is consistent with the requirements outlined above, and that have been already incorporated into Montana's and Idaho's regulatory framework, we intend to delist the entire NRM DPS.

If the Service delists the wolf in the NRM DPS, the major difference between the previous Federal management and the new State management of problem wolves will be the slightly increased authority to take wolves in the act of attacking or molesting livestock or other domestic animals on private land by private landowners or on grazing allotments by permittees and public harvest programs to help regulate wolf distribution and density to meet state management objectives.

Private take of problem wolves under State regulations would replace some agency control, but we believe this would not dramatically increase the overall numbers of problem wolves killed each year because of conflicts with livestock. However, if Wyoming does not finalize an adequate State management plan consistent with the requirements outlined above, current Wyoming State law designates predatory animal status that allows all wolves, including pups, to be killed by any means, without limit, at any time, for any reason, and regardless of any direct or potential threat to livestock. Such unregulated take could eliminate wolves from some otherwise significant portion of the range habitat in northwestern Wyoming. Therefore, without an adequate State management plan, wolf management in northwestern Wyoming will remain under the protections of the Act and continue to be conducted by the Service after this proposal is finalized.

In contrast to the Service recovery program, currently approved State and Tribal management programs also are to incorporate regulated public harvest, only when wolf populations in Montana and Idaho are safely above recovery levels of 15 or more breeding pairs, to help manage wolf distribution and numbers to minimize conflicts with humans. Wyoming State law and management also should meet this requirement before wolves in that State also could be delisted. Each of the three core States routinely uses regulated public harvest to help successfully manage and conserve other large predators and wild ungulates under their authority. Idaho and Montana will use similar programs to manage wolf populations safely above recovery levels, when there are more than 15 breeding pairs in their State. Wyoming will likely have a similar program prior to the Act's protections being removed.

The States of Montana, Idaho, and Wyoming have managed resident ungulate populations for decades and maintain them at densities that would easily support a recovered wolf population. They, and Federal land management agencies, will continue to manage for high ungulate populations in the foreseeable future. Native ungulate populations also are maintained at high levels by Washington, Oregon, and Utah in the portions of those States that are in the proposed NRM DPS. No foreseeable condition would cause a decline in ungulate populations significant enough to affect a recovered wolf population.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Public Attitudes Toward the Gray Wolf—The primary determinant of the long-term status of gray wolf populations in the United States will be human attitudes toward this large predator. These attitudes are largely

based on the conflicts between human activities and wolves, concern with the perceived danger the species may pose to humans, its symbolic representation of wilderness, the economic effect of livestock losses, the concerns regarding the threat to pets, opinions that the species should never be subject to sport hunting or trapping, and the wolf traditions of Native American Tribes.

In recent decades, national support has been evident for wolf recovery and reintroduction in the NRM (Service 1994, pp. 5:11–111). With the continued help of private conservation organizations, the States and Tribes can continue to foster public support to maintain viable wolf populations in the NRM. We have concluded that the State management regulations that will go into effect if wolves in the NRM are removed from the Act's protections will further enhance public support for wolf recovery. State management provides a larger and more effective local organization and a more familiar means for dealing with these conflicts (Mech 1995, pp. 275–276; Williams *et al.* 2002, p. 582; Bangs *et al.* 2004, p. 102). State wildlife organizations have specific departments and staff dedicated to providing accurate and science-based public education, information, and outreach.

Genetics—Genetic diversity in the GYA segment of the NRM is extremely high (Wayne 2005). A recent study of genetics among wolves in northwestern Montana and the reintroduced populations found that wolves in those areas were as genetically diverse as their source populations in Canada and that inadequate genetic diversity was not a wolf conservation issue in the NRM at this time (Forbes and Boyd 1997, p. 1089; Vonholdt 2006). Because of the long dispersal distances and the relative speed of natural wolf movement within the NRM DPS (discussed under Factor A), we anticipate that populations of NRM wolves will continue to intermix at a sufficient rate to maintain high genetic diversity into the foreseeable future. However, should it become necessary sometime in the distant future, Idaho, Montana, and Wyoming recognize relocation as a potentially valid wildlife management tool.

No manmade and natural factors threaten wolf population recovery within the foreseeable future. Public attitudes toward wolves have improved greatly over the past 30 years, and we expect that, given adequate continued management of conflicts, those attitudes will continue to support wolf restoration. The State wildlife agencies have professional education, information, and outreach components and are to present balanced science-based information to the public that will continue to foster general public support for wolf restoration and the necessity of conflict resolution to maintain public tolerance of wolves. Additionally, there are no concerns related to wolf genetic viability or interbreeding coefficients.

Conclusion of the 5-Factor Analysis

As required by the Act, we considered the five potential threat factors to assess whether wolves are threatened or endangered throughout all or a significant portion of their range in the NRM DPS and, therefore, whether the NRM DPS should remain listed. While wolves historically occurred over most of the proposed DPS, large portions of this area are no longer able to support viable wolf populations, and the wolf population in the NRM DPS will remain centered in northwestern Montana, central Idaho, and the GYA. This area represents the biologically significant portion of the species' range. If Wyoming develops an adequate State management plan, the NRM DPS would no longer be threatened or endangered in all or any significant portion of its range for the foreseeable future. Gray wolves in those portions of Oregon, Utah, and Washington that are within the boundaries of the distinct population segment do not constitute a significant portion of the range of this distinct population segment for the reasons outlined above. We reviewed all potential threats to the wolf population in the NRM DPS and we concluded that none except the current state regulatory framework in Wyoming would threaten wolves in any significant portion of the range in the NRM DPS in the foreseeable future. Such a regulatory framework would also threaten the suitable habitat and wolf range in Wyoming outside the National Parks. If Wyoming changes its law and management plan consistent with the Service's recommendations, it will also sufficiently regulate human-caused mortality. However, if no changes occur, excessive human-caused mortality as allowed under Wyoming state law would remain the lone threat to wolves in a significant portion of the range in northwestern Wyoming outside the National Parks. If a new Wyoming regulatory framework cannot be approved by the Service, then the Act's protections will remain in effect in a significant portion of range in Wyoming, outside the National Parks, and they will provide adequate assurance into the foreseeable future that human-caused mortality will not become a threat to wolves in all or a significant portion of their range, even in northwestern Wyoming outside the National Parks.

The large amount and distribution of suitable habitat in public ownership in the States of Montana, Idaho, and Wyoming, land-use practices that will maintain the suitability of these areas for wolves, the presence of three large protected core areas that contain high-quality suitable habitat assures the Service that threats to wolf habitat in the NRM DPS have been reduced or eliminated in all or a significant portion of its range for the foreseeable future, except for northwestern Wyoming outside the National Parks. Unsuitable habitat and small, fragmented suitable habitat away from these core areas within the NRM DPS, largely represent geographic locations where wolf packs cannot persist and are not significant to the conservation of wolves in the NRM DPS. Disease and natural predation do not threaten wolf population recovery in all or a significant portion of the species' range, nor are they likely to within the foreseeable future. Additionally, we believe that other relevant natural or manmade factors (i.e., public attitudes and genetics) are not significant conservation issues that threaten the wolf population in all or a significant portion of its range within the foreseeable future.

Human-caused mortality remains the primary threat to the gray wolf. Therefore, managing mortality (i.e., overutilization of wolves for commercial, recreational, scientific and educational purposes and human predation) remains the primary challenge to maintaining a recovered wolf population into the foreseeable future. Wolf management by the Tribes and the States of Washington, Oregon, and Utah will be beneficial, but is not necessary to either achieving or maintaining a recovered wolf population in the NRM DPS, as these areas do not constitute a significant portion of the DPS. We have determined that if Wyoming develops an adequate State management plan, the wolf management plans in the 3 States will be adequate to regulate human-caused mortality and that each State will maintain its share and distribution of the NRM wolf population above recovery levels for the foreseeable future. In this case, we propose to establish the NRM DPS of the gray wolf and to delist all gray wolves in the entire NRM DPS.

In the past, the Service has approached delisting of ''species'' (as that term is defined by the Act) due to recovery to require that the entity being delisted must be neither threatened nor endangered throughout all or a

significant portion of its range. In practice, this has meant that we have delisted entire species, subspecies, or distinct population segments of vertebrate animals. In the current situation, i.e., without an adequate management plan in place in Wyoming, we propose to establish a Northern Rocky Mountain distinct population segment of gray wolf and to delist wolves in all areas of that DPS exclusive of the significant portion of the range in the State of Wyoming outside of the National Parks in northwestern Wyoming. As clearly indicated by the discussion in this proposed delisting, we currently regard a portion of Wyoming to be a significant portion of the range of the NRM DPS because a biologically significant portion of the species' range occurs in Wyoming and have determined that the State has not adequately addressed the threats to the gray wolf in that portion. Accordingly, the protections of the Act will continue to apply to gray wolves in that significant portion of the range. We believe that this proposal is in the public interest because, by conditionally returning management to the States, it rewards those who have undertaken positive efforts to conserve the species and alleviate the threats posed by human-caused mortality. This approach furthers the Administration's efforts to emphasize the importance of cooperative conservation in achieving the purposes of the Act.

Section 4(c)(1) of the Act states, ''The Secretary of the Interior shall publish in the **Federal Register** a list of all species determined by him or the Secretary of Commerce to be endangered species and a list of all species determined by him or the Secretary of Commerce to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, *specify with respect to such species over what portion of its range it is endangered or threatened*, and specify any critical habitat within such range'' 16 U.S.C. 1533(c)(1) (emphasis added). The Service believes the emphasized text, in conjunction with the ''significant portion of its range'' language in the definition of ''threatened'' and ''endangered,'' U.S.C. 1532(6), (20), indicates that Congress anticipated situations where the protections of the Act might not be extended to an entire species, as that term is defined by the Act, and that this provides the authority for listing or delisting a portion of a species, subspecies, or distinct population segment of vertebrate animal.

This conclusion is also consistent with the case law, the ESA, and the legislative history of the Act. In *Defenders of Wildlife* v. *Norton*, 258 F.3d 1136 (9th Cir. 2001), the Ninth Circuit stated regarding the ''significant portion of its range'' language: ''It appears that Congress added this new language in order to encourage greater cooperation between federal and state agencies to allow the Secretary more flexibility in her approach to wildlife management.'' *Id.* at 1144. The court went on to recount the Senate floor debate of the ESA, interpreting it as suggesting that the bill would allow the Secretary to give the American alligator different listing statuses in different states. *Id.* at 1144–45. Finally, in its holding, the court stated that a significant portion of a species' range could coincide with State boundaries, and that ''[t]he Secretary necessarily has a wide degree of discretion in delineating ''a significant portion of its range.'' *Id.* at 1145.

Therefore, based on the best scientific and commercial information available, if Wyoming modifies their wolf management framework we propose that the gray wolf in the NRM DPS be removed from the list of threatened and endangered species. However, if it fails to modify its management plan adequately, wolves in significant portion of the range in Wyoming outside of the National Parks in northwestern Wyoming will still require the Act's protections and will retain their nonessential experimental status under section 10(j) of the Act.

Post-Delisting Monitoring

Section 4(g)(1) of the Act, added in the 1988 reauthorization, requires us to implement a system, in cooperation with the States, to monitor for not less than 5 years, the status of all species that have recovered and been removed from the Lists of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12). The purpose of this post-delisting monitoring (PDM) is to verify that a recovered species remains secure from risk of extinction after it no longer has the protections of the Act. Should relisting be required, we may make use of the emergency listing authorities under section 4(b)(7) of the Act to prevent a significant risk to the well-being of any recovered species.

Monitoring Techniques—The NRM area was intensively monitored for wolves even before wolves were documented in Montana in the mid-1980s (Weaver 1978; Ream and Mattson 1982, pp. 379–381; Kaminski and Hansen 1984, p. v). Numerous Federal, State, Tribal agencies, universities, and special interest groups assisted in those various efforts. Since 1979, wolves have been monitored using standard techniques including collecting, evaluating, and following-up on suspected observations of wolves or wolf signs by natural resource agencies or the public; howling or snow tracking surveys conducted by the Service, our university and agency cooperators, volunteers, or interested special interest groups; and by capturing, radio-collaring, and monitoring wolves. We only consider wolves and wolf packs as confirmed when Federal, State, or Tribal agency verification is made by field staff that can reliably identify wolves and wolf signs.

The wolf monitoring system works in a hierarchical nature. Typically we receive a report (either directly or passed along by another agency) that wolves or their signs were observed. We make no judgment whether the report seems credible or not and normally just note the general location of that observation. Unless breeding results, reports of single animals are not important unless tied to other reports or unusual observations that elicit concern (i.e., a wolf reported feeding on a livestock carcass). Lone wolves can wander long distances over a short period of time (Mech and Boitani 2003, pp. 14–15) and may be almost impossible to find again or confirm. However, the patterns and clusters of those individual reports are very informative and critical to subsequent agency decisions about where to focus agency searches for wolf pack activity.

When we receive multiple reports of multiple individuals that indicate possible territoriality and pair bonding (the early stage of pack formation), or a report of multiple wolves that seems highly credible (usually made by a biologist or experienced outdoors-person), we typically notify the nearest Federal, State or Tribal natural resource/land management agency and ask them to be on the alert for possible wolf activity during their normal course of field activities. Once they locate areas of suspected wolf activity, we may ask experienced field biologists to search the area for wolf signs (tracks, howling, scats, ungulate kills). Depending on the type of activity confirmed, field crews may decide to capture, radio-collar, and release wolves on site. Radio-collared wolves are then relocated from the air 1 to 4 times per month dependent on a host of factors including funding, personnel, aircraft availability, weather, and other priorities. At the end of the year, we compile agency-confirmed wolf observations to estimate the numbers and locations of adult wolves and pups that were likely alive on December 31 of that year. These data are then

summarized by packs to indicate overall population size, composition, and distribution. This level of wildlife monitoring is intensive compared to nearly all others done in North America. We believe the results are relatively accurate estimates of wolf population distribution and structure (Service *et al.* 2006, Table 4, Figure 1) in the NRM DPS. This monitoring strategy has been used to estimate the NRM wolf population for over 20 years.

Montana, Idaho, and Wyoming, as well as Oregon and Utah, committed to continue monitoring of wolf populations, according to their State wolf management plans (See State plans in Factor D), using similar techniques as the Service and its cooperators (which has included the States, Tribes, and USDA–WS—the same agencies that will be managing and monitoring wolves post-delisting) have used. The States have committed to continue to conduct wolf population monitoring through the mandatory 5-year PDM period that is required by the Act. The States also have committed to publish the results of their monitoring efforts in annual wolf reports as has been done since 1989 by the Service and its cooperators (Service *et al.* 1989–2006). Other States and Tribes within the DPS adjacent to Montana, Idaho, and Wyoming also have participated in this interagency cooperative wolf monitoring system for at least the past decade, and their plans commit them to continue to report wolf activity in their States and coordinate those observations with other States. The annual reports have also documented all aspects of the wolf management program including staffing and funding, population monitoring, control to reduce livestock and pet damage, research (predator-prey interactions, livestock/wolf conflict prevention, disease and health monitoring, publications, etc.) and public outreach.

Service Review of the Post-Delisting Status of the Wolf Population—To ascertain wolf population distribution and structure and to analyze if the wolf population might require a status review (to determine whether it should again be listed under the Act), we intend to review the State and any Tribal annual wolf reports each year. The status of the NRM wolf population will be estimated by estimating the numbers of packs, breeding pairs, and total numbers of wolves in mid-winter throughout the post-delisting monitoring period (Service et al. 2006, Table 4, Figure 1). By evaluating the techniques used and the results of those wolf monitoring efforts, the Service can decide whether further action, including re-listing is warranted. In addition, the States and Tribes are investigating other, perhaps more accurate and less expensive, ways to help estimate and describe wolf pack distribution and abundance (Service *et al.* 2006, Figure 1, Table 4; Ausband 2006; Kunkel *et al.* 2005).

Data indicate that other survey methods and data can become the ''biological equivalents'' of the breeding pair definition currently used to measure recovery. Those State and Tribal investigations also include alternative ways to estimate the status of the wolf population and the numbers of breeding pairs that are as accurate, but less expensive, than those that are currently used (Ausband 2006). The States will continue to cooperate with National Parks and Tribes and publish their annual wolf population estimates after the 5-year mandatory wolf population monitoring required by the Act is over, but this will not be required by the Act.

We fully recognize and anticipate that State and Tribal laws regarding wolves and State and Tribal management will change through time as new knowledge becomes available as the States and Tribes gain additional experience at wolf management and conservation. We will base any analysis of whether a status review and relisting are warranted upon the best scientific and commercial data available regarding wolf distribution, abundance, and threats in the NRM DPS. For the 5-year PDM period, the best source of that information will be the State annual wolf reports. We intend to post those annual State wolf reports and our annual review and comment on the status of the wolf population in the NRM DPS on our Web site (*http://westerngraywolf.fws.gov/*) by, approximately, April 1 of each year. During our yearly analysis for PDM (at least 5 years) of the State's annual reports, we also intend to comment on any threats that may have increased during the previous year, such as significant changes in a State regulatory framework, diseases, decreases in prey abundance, increases in wolf-livestock conflict, or other factors.

Our analysis and response for PDM is to track changes in wolf abundance, distribution, and threats to the population. If the wolf population ever falls below the minimum NRM wolf population recovery level (30 breeding pairs of wolves and 300 wolves in Montana, Idaho, and Wyoming), we could initiate an immediate analysis of whether an emergency listing of gray wolves throughout the NRM DPS was appropriate. If the wolf population segment in Montana, Idaho, or Wyoming falls below 10 breeding pairs or 100 wolves in any one of those States for 3 consecutive years, we could initiate a status review and analysis of threats to determine if relisting was warranted. All such reviews would be made available for public review and comment, including peer review by select species experts. If either of these two scenarios (less than 30 breeding pairs or 300 wolves, or less than 10 breeding pairs or 100 wolves in either Montana, Idaho, or Wyoming) occurred in any year during the mandatory PDM period, the PDM period would be extended five additional years from that point.

Clarity of the Rule

Executive Order 12866 requires agencies to write regulations that are easy to understand. We invite your comments on how to make this proposal easier to understand including answers to questions such as the following—(1) Is the discussion in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful to your understanding of the proposal? (2) Does the proposal contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposal (groupings and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? What else could we do to make the proposal easier to understand? Send a copy of any comments on how we could make this rule easier to understand to—Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You also may e-mail the comments to this address—*Exsec@ios.doi.gov.*

Public Comments Solicited

We solicit information, data, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposal. Generally, we seek information, data, and comments concerning the boundaries of the proposed NRM DPS and the status of gray wolf in the NRM. Specifically, we seek documented, biological data on the status and management of the NRM wolf population and its habitat.

Public Hearing

The ESA provides for public hearings on this proposed rule. We have scheduled six public hearings on this proposed rule as specified above in **DATES** and **ADDRESSES**. Public hearings are designed to gather relevant information that the public may have that we should consider in our

rulemaking. During the hearing, we will present information about the proposed action. We invite the public to submit information and comments at the hearing or in writing during the open public comment period. We encourage persons wishing to comment at the hearings to provide a written copy of their statement at the start of the hearing. This notice and the public hearings will allow all interested parties to submit comments on the proposed rule for the gray wolf. We are seeking comments from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested parties concerning the proposal.

The eastern one-third of Washington and Oregon, and a small portion of northern Utah are included within the proposed DPS. We request comments on whether the DPS should, or should not, include more, or less, land within these, or any other, State(s). Any such comments should provide relevant scientific data. We will consider the information so submitted in delineating the boundaries for this DPS.

We request comment on our approach of removing protections in all or a portion of the NRM DPS. If Wyoming adopts a State law and a State wolf management plan that the Service approves we will remove Act protections for all of the NRM DPS. However, if Wyoming does not, the Service would remove the Act's protections for Idaho and Montana and parts of Washington, Oregon, and Utah. Northwestern Wyoming outside the National Parks would retain its nonessential experimental status under section 10(j) of the Act but the rest of the state would be delisted. Continued Service management of wolves in northwestern Wyoming would ensure their conservation, until a Wyoming regulatory framework can be developed and approved. We believe this process is in the public's best interest, furthers conservation efforts in the NRM DPS, and is within our statutory discretion under the Act.

Finally, we request comments concerning our intention to use section 6 agreements under the Act to allow States with Service-approved wolf management plans, located adjacent to NRM DPS, to assume wolf management including nonlethal and lethal control of problem wolves. Such agreements may be entered into with a State for the administration of and management for the conservation of endangered or threatened species. The protections of the Act would still continue to apply to the gray wolves outside the NRM DPS.

Submit comments as indicated under **ADDRESSES**. If you wish to submit comments by e-mail, please avoid the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that the Service may be required to disclose your name and address pursuant to the Freedom of Information Act. We will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at our Helena Office. (see **ADDRESSES**). In making a final decision on this proposed rule, we will take into consideration the comments and any additional information we receive. Such communications may lead to a final rule that differs from this proposed rule.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our delisting decision is based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to these peer reviewers immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed delisting. We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposed rule.

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and assigned Office of Management and Budget (OMB) control number 1018–0094, which expires on September 30, 2007. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.21 and 17.22.

National Environmental Policy Act

The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with actions adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this document is available upon request from the Western Gray Wolf Recovery Coordinator (see **ADDRESSES** above).

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

2. Amend § 17.11(h) by revising the entry for ''Wolf, gray'' under ''MAMMALS'' in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	*
Wolf, gray	*Canis lupus*	Holarctic	U.S.A., conterminous (lower 48) States, except: (1) Where listed as an experimental population below; (2) Minnesota, Wisconsin, Michigan, eastern North Dakota (that portion north and east of the Missouri River upstream to Lake Sakakawea and east of Highway 83 from Lake Sakakawea to the Canadian border), eastern South Dakota (that portion north and east of the Missouri River), northern Iowa, northern Illinois, and northern Indiana (those portions of IA, IL, and IN north of Interstate Highway 80), and northwestern Ohio (that portion north of Interstate Highway 80 and west of the Maumee River at Toledo); (3) except Montana, Wyoming, and Idaho, eastern Washington (that portion of Washington east of Highway 97 and Highway 17 north of Mesa and that portion of Washington east of Highway 395 south of Mesa), eastern Oregon (portion of Oregon east of Highway 395 and Highway 78 north of Burns Junction and that portion of Oregon east of Highway 95 south of Burns Junction), and north central Utah (that portion of Utah east of Highway 84 and north of Highway 80); and (4) Mexico. U.S.A. (portions of AZ, NM, and TX—see section 17.84(k)).	E	1, 6, 13, 15, 35, 561, 562, 735.	N/A	N/A
Do	do	do		XN	631	N/A	17.84(k)
*	*	*	*	*	*	*	*

§ 17.84 [Amended]

3. Amend § 17.84 by removing paragraphs (i) and (n).

Dated: January 29, 2007.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 07–487 Filed 2–7–07; 8:45 am]

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CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 8, 2007

GENERAL SERVICES ADMINISTRATION

Federal Management Regulation:

Real property policies; update

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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